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*James S. Statue*

# *The* ELECTION LAWS

OF THE  
STATE OF COLORADO  
ANNOTATED

## Primary *and* General

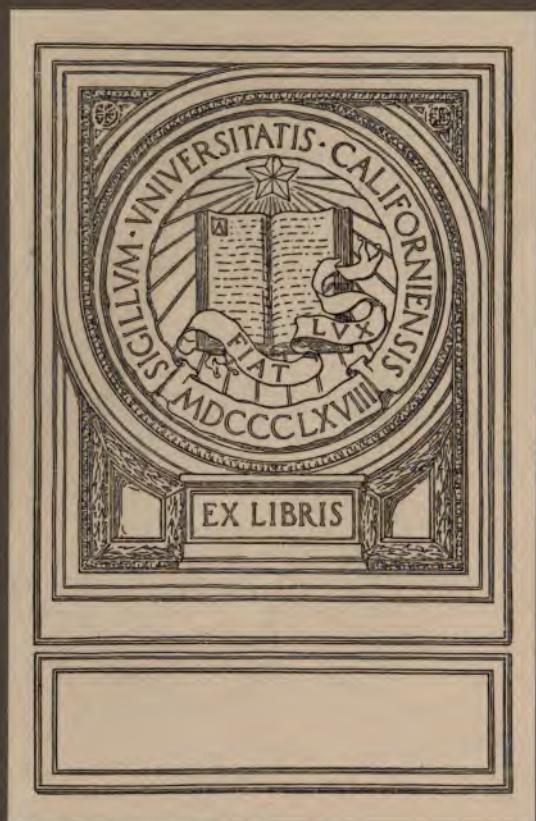
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OF 1921 *and* 1922



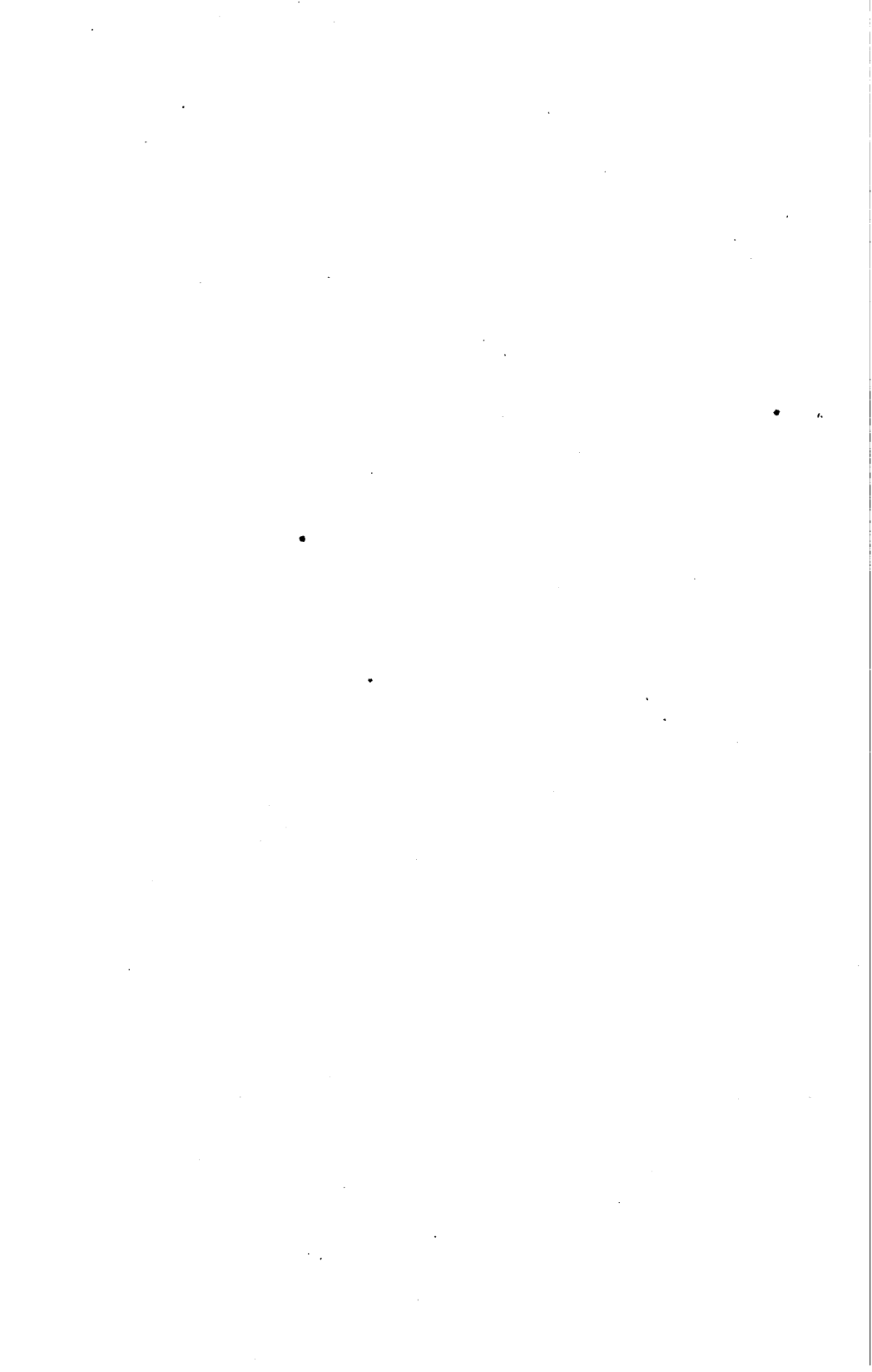
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CARL S. MILLIKEN  
Secretary of State

Revised by  
VICTOR E. KEYES  
Attorney General

SAMUEL CHUTKOW  
Assistant Attorney General







UNIV. OF  
CALIFORNIA

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JAMES BROTHERS, STATE PRINTERS  
DENVER, COLORADO  
1922

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The various constitutional and statutory provisions in this pamphlet have been annotated by the addition of the syllabi of Colorado decisions interpreting them. While we do not offer these annotations as a full and complete digest of the decisions, we think that sufficient has been set forth to make them of substantial service to the users of the pamphlet.

The sections bear the numbers of the same sections in the Revised Statutes of Colorado of 1908, except where law was passed subsequent to 1908.

#### ABBREVIATIONS.

Rev. Stat. refers to Revised Statutes 1908.  
G. L. refers to General Laws 1877.  
G. S. refers to General Statutes 1883.  
R. S. refers to Revised Statutes 1868.  
L. refers to Session Laws.  
S. B. refers to Senate Bill.  
H. B. refers to House Bill.

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CARL S. MILLIKEN,  
Secretary of State.

Denver, Colorado, June 1, 1921.

# SECTIONS OF THE CONSTITUTION of the STATE OF COLORADO Concerning Elections

[Adopted in Convention, March 14, 1876, and Amendments adopted to April 7, 1919.]

## ARTICLE II—BILL OF RIGHTS.

**Section 1. Vestment of political power.**—That all political power is vested in and derived from the people; that all government, of right, originates from the people, is founded upon their will only, and is instituted solely for the good of the whole.

1. This section and section 2 of this Article expresses the fundamental principles of our free institutions, to the effect that the powers of civil government are "vested in and derived from the people" of the state, subject to the constitution of the United States. *DeVotie vs. McGerr*, 14 Colo., 577, 583.

2. The registration acts (L. '05, page 188 and L. '07, page 374) do not relate to local or municipal affairs and the provisions authorizing the county clerk to name the registration committee do not deprive the people of the right of local self government in electing or appointing their officers, even though such clerk does not reside in the city. *People ex rel., Johnson vs. Earl*, 42 Colo., 238, 266.

**Sec. 2. People may alter or abolish form of government—Proviso.**—That the people of this state have the sole and exclusive right of governing themselves, as a free, sovereign and independent state; and to alter and abolish their constitution and form of government whenever they may deem it necessary to their safety and happiness, *Provided*, Such change be not repugnant to the constitution of the United States.

1. This section referred to in *Post Co., vs. Shafroth*, 53 Colo., 129, 137.

**Section 3. Inalienable rights.**—That all persons have certain natural, essential and inalienable rights, among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing and protecting property; and of seeking and obtaining their safety and happiness.

1. Rights acquired to the use of water for irrigation, prior to the adoption of our state constitution, cannot be taken by a city for the domestic use of its inhabitants, without compensation. *Strickler vs. Colorado Springs*, 16 Colo., 62.

2. Our statute authorizing the appointment of conservators as herein construed is not in violation of any natural or constitutional rights of acquiring, possessing and protecting property. *Shapter vs. Pillar*, 28 Colo., 209.

3. Chapter 93, Session Laws 1899, page 175, prohibiting the driving, working or using of any unregistered docked horse, is a reasonable and valid exercise of the police power of the state, and is not in violation of the fourteenth amendment of the constitution of the United States, providing that no state shall deprive any person of life, liberty or property without due process of law, nor of Section 3, Article II, of our state constitution, declaring that "all persons have certain natural, essential and inalienable rights, among which may be reckoned the right . . . of acquiring, possessing and protecting property, and of seeking and obtaining their safety and happiness." *Bland vs. The People*, 32 Colo., 319, 320.

4. Article I, Section 3.—The amendment to Section 3 of Article XI of the Constitution (Laws 1909, c. 148) providing for the issue of bonds for discharging outstanding warrants of the state, that certain executive officers shall constitute a board to determine the amounts fairly and equitable payable out of this fund upon the warrants, and that upon their report to the auditor, certain other executive officers may exchange the bonds for an equal amount of the warrants, but with no provision which compels the holder of any warrant to accept the bonds in lieu of money, has not the effect to deprive any person of property without due process of law, *Post Co., vs. Shafroth*, 53 Colo., 129.

5. The liability imposed upon railway companies for fires set out in the operation of the railway by Revised Statutes, Section 5512, is absolute. The owner of the property damaged or destroyed recovers his loss in full, though he may have obtained insurance upon such property, and received the insurance money.

The question is not affected by Section 3, Article II, of the Constitution. *Rhinehart vs. Denver Co.*, 61 Colo., 369.

**Sec. 5. Freedom of elections.**—That all elections shall be free and open; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.

1. The granting of an injunction to restrain a county clerk from certifying fraudulent and fictitious registration lists to the election judges does not violate this section. *Aichelle v. People*, 40 Colo., 482, 488.

2. Under the Constitution (Section 5, Article II; Section 1, Article VII) every qualified voter has the equal right to cast a ballot for the person of his own selection, and nothing can lawfully prevent the exercise of this right. Legislative regulation of the franchise cannot extend to deny its exercise or trammel by conditions so difficult or inconvenient as to amount to a denial. Accordingly held that portion of section 5919, R. S. which provides that at election for school directors "no person other than those whose names appear upon the ballot"—prepared by the secretary—"shall be voted for," is unconstitutional. *Littlejohn v. People*, 52 Colo., 220-4.

3. The legislation distinguished from the Australian Ballot Acts. *Idem* 225-6.

4. "The purpose of that provision in our fundamental law was to secure freedom of choice by voters, not merely between parties, but also in respect to every office to be filled and every provision submitted to the electors for their consideration and determination." *Speer v. People*, 52 Colo., 325, 369.

5. Freedom of election is essential, and if the voter is deterred from the free exercise of his will or the expression of his choice by any influence whatever, the election is not free, even though there was no violence or physical coercion. *Neelley v. Farr*, 61 Colo., 485.

6. Whenever the voters have been put under the constraint, by false practice, and intimidated, not slightly, and in individual cases, but generally, and to the extent of rendering the result uncertain, so that it is impossible to separate, with reasonable certainty, the false from the true, the whole poll must be rejected, even though thereby honest voters may be deprived of their franchise. *Idem*.

#### ARTICLE IV.—EXECUTIVE DEPARTMENT.

**Section 1. Officers—Term of office—Residence.**—The executive department shall consist of a governor, lieutenant-governor, secretary of state, auditor of state, state treasurer, attorney-general and superintendent of public instruction, each of whom shall hold his office for the term of two years, beginning on the second Tuesday of January next after his election; *Provided*, That the terms of office of those chosen at the first election held under this constitution shall begin on the day appointed for the first meeting of the general assembly. The officers of the executive department, except the lieutenant-governor, shall, during their term of office, reside at the seat of government, where they shall keep the public records, books and papers. They shall perform such duties as are prescribed by this constitution or by law.

1. The purpose of this section in declaring that the executive department of the state "shall consist of a governor," etc., was to provide for such executive officers as the members of the constitutional convention deemed absolutely indispensable—leaving it to the legislature to create new offices when they became necessary, and to abolish the same, but without authority to abolish any of those enumerated. *Parks v. Commissioners of Soldiers & Sailors Home*, 22 Colo., 86.

2. The legislature may create new state elective offices in addition to those provided for in this section. *People v. Montez*, 48 Colo., 436, 444.

3. Section 6 of this Article provides for the appointment of officers not enumerated in this section. *Idem* 445.

**Sec. 3. State officers—Election—Returns.**—The officers named in section one of this article shall be chosen on the day of the general election, by the qualified electors of the state. The returns of every election for said officers shall be sealed up and transmitted to the secretary of state, directed to the speaker of the house of representatives, who shall immediately, upon the organization of the house, and before proceeding to other business, open and publish the same in the presence of a majority of the members of both houses of the general assembly, who shall for that purpose assemble in the house of representatives. The person having the highest number of votes for either of said offices shall be declared duly elected, but if two or more have an equal and the highest number of votes for the same office, one of them shall be chosen thereto by the two houses, on joint ballot. Contested elections for the said offices shall be determined by the two houses, on joint ballot, in such manner as may be prescribed by law.

1. This section, with Article IV, Section 15, which provided that in certain cases the speaker of the house of representatives shall act as governor pro tem, fails to establish that the speaker is a state officer, and exempted from the power, discipline and control of the house. In re Speakership, 15 Colo., 520, 525.

2. In a contest, for the office of governor, the general assembly has no authority to declare that no person was elected and that a vacancy exists. In re S. R. No. 10, 33 Colo., 307, 314.

4. The state board of assessors as created by the revenue act of 1901 is a part of the executive branch of the state government. People vs. District Court, 29 Colo., 182.

5. Under Constitution, Article IV, Section 1, providing that the executive department shall consist of a governor and attorney general who shall perform the duties prescribed by the constitution and law, and Revised Statutes, 1903, Section 6186, requiring the attorney general to prosecute actions in which the state shall be a party or interested, when required to do so by the governor, the attorney general has jurisdiction, when ordered by the governor, to institute a suit on behalf of the people to enjoin a combination in restraint of trade. Jobbers' Association vs. People, 21 Colo. App., 327.

6. Where an officer of the executive department refuses to perform a duty imposed upon him by statute, and in the performance of which the public are interested, the governor is the proper party to institute, as relator, proceedings by mandamus to compel him to act, when the performance of the duty by the officer refusing is necessary before the governor can discharge a duty imposed upon him. People vs. Kenenhan, 55 Colo., 589.

7. As to offices created by the constitution, and the appointment to which is committed to the governor, his discretion is not to be limited or impaired by legislation. As to offices created by statute, the legislature may commit the appointment to the governor, or to any other officer or board.

The provisions of the Civil Service Law requiring the appointment to particular places in the civil service of the persons standing highest in the eligible list is not in conflict with Section 1 of Article IV of the Constitution. People vs. Capp, 61 Colo., 396.

**Sec. 4. Qualification of state officers.**—No person shall be eligible to the office of governor, lieutenant-governor, or superintendent of public instruction unless he shall have attained the age of thirty years, nor to the office of auditor of state, secretary of state or state treasurer, unless he shall have attained the age of twenty-five years, nor to the office of attorney-general unless he shall have attained the age of twenty-five years, and be a licensed attorney of the supreme court of the state or of the territory of Colorado in good standing. At the first election under this constitution any person being a qualified elector at the time of the adoption of this constitution, and having the qualifications above herein prescribed for any one of said offices shall be eligible thereto; but thereafter no person shall be eligible to any one of said offices unless, in addition to the qualifications above prescribed therefor, he shall be a citizen of the United States, and have resided within the limits of the state two years next preceding his election.

1. See Van Kleeck vs. Ramer, Secretary of State, 62 Colo., 4.

**Sec. 6. Appointment of officers—Vacancy.**—The governor shall nominate, and by and with the consent of the senate, appoint all officers whose offices are established by this constitution, or which may be created by law, and whose appointment or election is not otherwise provided for, and

may remove any such officer for incompetency, neglect of duty or malfeasance in office. If during the recess of the senate a vacancy occur in any such office, the governor shall appoint some fit person to discharge the duties thereof until the next meeting of the senate, when he shall nominate some person to fill such office. If the office of auditor of state, state treasurer, secretary of state, attorney-general or superintendent of public instruction shall be vacated by death, resignation or otherwise, it shall be the duty of the governor to fill the same by appointment, and the appointee shall hold his office until his successor shall be elected and qualified in such manner as may be provided by law. The senate in deliberating upon executive nominations may sit with closed doors, but in acting upon nominations they shall sit with open doors, and the vote shall be taken by ayes and noes, which shall be entered upon the journal.

1. The words in the above section "whose appointment for election is not otherwise provided for," prevent this section from applying to officers created by the statute, which provides for the manner of making original appointments, the terms of office, how all vacancies shall be filled and when the term of an incumbent appointed to fill a vacancy shall expire. *People ex rel., vs. Osborne*, 7 Colo., 608; *People vs. Rucker*, 5 Idem, 460; *Brown vs. People*, 11 Idem, 110.

2. This section recognizes and provides for the appointment of officers not enumerated in Section 1 of this Article. *People vs. Montez*, 48 Colo., 436, 445.

3. The court has uniformly declined to pass upon the title to an office or the right to property in an *ex parte* proceeding in answer to an executive or legislative question. In re *Appointments*, 21 Colo., 14.

4. The power of the governor to fill a vacancy in the office of the board of public works of the City of Denver is controlled by the city charter and not by Section 6, Article IV of the Constitution, and an appointment to fill such vacancy is for the entire unexpired term, and not until the next meeting of the senate, and the governor is not required to submit such appointment to the incoming senate for confirmation. *Monash vs. Rhodes*, 27 Colo., 236.

5. The state veterinary surgeon is a state officer, and the power to remove him is by the constitution vested in the governor. *Lamb vs. People*, 3 Colo. App., 106.

6. When powers are specially conferred by the constitution upon the governor, the legislature cannot authorize them to be performed by any other officer or authority; and from those duties which the constitution requires of him, he cannot be excused by law. *Lamb vs. People*, 3 Colo. App., 106.

7. The state veterinary sanitary board has no authority to pass upon the qualifications of the state veterinary surgeon, and no power to remove him from office. *Lamb vs. People*, 3 Colo. App., 106.

8. Section 6, Article IV of the Constitution authorizing the governor to remove certain officers for incompetency, neglect of duty or malfeasance in office, does not apply to an office, appointment to which is provided for and regulated only by statute. *Benson vs. People*, 10 Colo. App., 175.

9. Section 6, Article IV of the Constitution does not apply to a member of the fire and police board appointed under Section 45 of the Charter of the City of Denver (Session Laws, 1893, p. 172) which provides that the governor by and with the advice of the senate shall appoint three commissioners to constitute said board, and that during the vacation of the senate the governor may fill vacancies by appointment in writing filed with the secretary of state, and that all of said appointments shall be made to expire on the second Tuesday in April. An appointment made by the governor, as provided, to fill a vacancy in said board was for the balance of the full term and it was not necessary that the appointment be confirmed by the senate when it met, prior to the expiration of the term. Such officer was entitled to the salary of the office notwithstanding the incoming governor with the consent of the senate nominated another person to fill out the balance of the term after the senate met, who over the protest of the former assumed and exercised the duties of the office. *Church vs. Mullins*, 10 Colo. App., 318.

10. The act commonly known as the "Torrens Land Law," Session Laws, 1903 Chapter 139, Section 9, provides that county clerks and recorders of the several counties shall be registrars of titles in their respective counties. Section 8, Article XIV, Colorado Constitution, provides that there shall be elected in each county a county clerk, who shall be ex-officio recorder of deeds, but does not define his duties. Held, that Section 9 of the act does not create a new county office, which is neither filled by appointment, as required by Article IV, Section 6, supra, nor by election or appointment, as provided by Article XIV, Section 12, since only additional duties are imposed upon said clerk. *People vs. Crissman*, 41 Colo., 450.

11. The provisions of Section 6, Article IV, of the Constitution, that "if during the recess of the senate, a vacancy occurs" in any office, as to which no other provision is made "the governor shall appoint some fit person to discharge the duties thereof until the next meeting of the senate," refers

to cases where the joint action of the governor and the senate is necessary to fill a vacancy. And *ad interim* appointment by the governor during the recess of the senate, does not fill a vacancy in the office.

This is accomplished when, under the concluding provisions of the section, the senate being assembled, the governor nominates, and the senate confirms the nomination. *People vs. Scott*, 52 Colo., 59.

12. The appointment of the warden of the state reformatory is not committed to the governor by Section 6, Article IV of the Constitution, being "otherwise provided for," within the meaning of that section. The constitution not conferring upon any officer the power to appoint to this office, it rested with the legislature to confer the power, and take it away at its pleasure. *People vs. Capp*, 61 Colo., 396.

**Sec. 21.—Auditor and treasurer ineligible to re-election.**—Neither the state treasurer nor state auditor shall be eligible for re-election as his own immediate successor.

No annotations under this section.

## ARTICLE V.—LEGISLATIVE DEPARTMENT.

**Section 1. General assembly—People—Initiative and referendum.**—The legislative power of the state shall be vested in the general assembly consisting of a senate and house of representatives, both to be selected by the people, but the people reserve to themselves the power to propose laws and amendments to the constitution and to enact or reject the same at the polls independent of the general assembly, and also reserve power at their own option to approve or reject at the polls any act, item, section or part of any act of the general assembly.

The first power hereby reserved by the people is the **INITIATIVE**, and at least eight per cent. of the legal voters shall be required to propose any measure by petition, and every such petition shall include the full text of the measure so proposed. Initiative petitions for state legislation and amendments to the constitution, shall be addressed to and filed with the secretary of state at least four months before the election at which they are to be voted upon.

The second power hereby reserved is the **REFERENDUM**, and it may be ordered, except as to laws necessary for the immediate preservation of the public peace, health or safety, and appropriations for the support and maintenance of the department of state and state institutions, against any act, section or part of any act of the general assembly, either by a petition signed by five per cent. of the legal voters or by the general assembly. Referendum petitions shall be addressed to and filed with the secretary of state not more than ninety days after the final adjournment of the session of the general assembly, that passed the bill on which the referendum is demanded. The filing of a referendum petition against any item, section or part of any act, shall not delay the remainder of an act from becoming operative. The veto power of the governor shall not extend to measures initiated by, or referred to the people. All elections on measures referred to the people of the state shall be held at the biennial regular general election, and all such measures shall become the law or a part of the constitution, when approved by a majority of the votes cast thereon, and not otherwise, and shall take effect from and after the date of the official declaration of the vote thereon by proclamation of the governor, but not later than thirty days after the vote has been canvassed. This section shall not be construed to deprive the general assembly of the right to enact any measure. The whole number of votes cast for secretary of state at the regular general election last preceding the filing of any petition for the initiative or referendum shall be the basis on which the number of legal voters necessary to sign such petition shall be counted.

The secretary of state shall submit all measures initiated by or referred to the people for adoption or rejection at the polls, in compliance herewith. The petition shall consist of sheets having such general form printed or written at the top thereof as shall be designated or pre-

scribed by the secretary of state; such petition shall be signed by qualified electors in their own proper persons only, to which shall be attached the residence address of such person and the date of signing the same. To each of such petitions, which may consist of one or more sheets, shall be attached an affidavit of some qualified elector, that each signature thereon is the signature of the person whose name it purports to be, and that to the best of the knowledge and belief of the affiant, each of the persons signing said petition was at the time of signing, a qualified elector. Such petition so verified shall be prima facie evidence that the signatures thereon are genuine and true and that the persons signing the same are qualified electors. \*The text of all measures to be submitted shall be published as constitutional amendments are published, and in submitting the same and in all matters pertaining to the form of all petitions the secretary of state and all other officers shall be guided by the general laws, and the act submitting this amendment, until legislation shall be especially provided therefor.

\*[See Article XXIII on page 24 hereof.]

The style of all laws adopted by the people through the Initiative shall be, "Be it Enacted by the People of the State of Colorado."

The initiative and referendum powers reserved to the people by this section are hereby further reserved to the legal voters of every city, town and municipality as to all local, special and municipal legislation of every character in or for their respective municipalities. The manner of exercising said powers shall be prescribed by general laws, except that cities, towns and municipalities may provide for the manner of exercising the initiative and referendum powers as to their municipal legislation. Not more than ten per cent. of the legal voters may be required to order the referendum, nor more than fifteen per cent. to propose any measures by the initiative in any city, town or municipality.

This section of the constitution shall be in all respects self executing.

[Amended section as proposed by L. 1910, p. 11, and adopted November, 1910.]

1. In this section the phrase "until legislation shall be especially provided therefor" refers only to the submission of initiative and referendum measures and matters pertaining to the form of petitions and not to publication; (Musser, J. dissents). In re H. R. No. 10, 50 Colo., 71, 74-77.

2. The publication of initiated or referred measures must be in accordance with the provisions of Article XIX, Section 2 and the statutes. Idem 75.

3. Held—That the referendum is not granted to a mere resolution, e. g. amendment proposed by Congress to the Federal Constitution. Prior vs. Noland, 68 Colo., 263.

4. An act entitled "An Act to Provide for the Formation of Corporations," may, without violating Section 1, Article V, of the Constitution, prescribe a penalty for failure by the officers of a corporation to comply with its provisions relating to the filing of annual statements of its affairs. Ludington vs. Hellman, 9 Colo. App., 548.

5. The broad power of legislation reposed in the general assembly by Section 1, Article V, of the Constitution, is not to be limited by implication drawn from any other provision of that instrument, unless such implication is a necessary one. Schwartz vs. People, 46 Colo., 239, 240.

6. The general assembly, by Section 1 of Article V of the Constitution, has absolute power to regulate or prohibit the manufacture or sale of intoxicating liquors, and this power is not limited or impaired by anything contained in Section 5 of Article XVIII. Schwartz vs. People, 46 Colo., 239, 240.

7. The constitution prohibits the delegation of the powers of the legislature. A statute (Laws, 1910, Chapter 5) required every railway company to furnish cars to shippers; to prescribe reasonable time schedules for the operation of trains; prohibited undue advantages to particular localities; and required the utmost diligence in the carriage of goods committed to them for transportation. Neither the number of trains to be operated, the time within which any train should run, or the equipment of the trains was specified. Other provisions of the act provided for the appointment of a commission charged with the administration of the statute, and authorized to direct what equipment should be supplied, what trains should be operated, and what other duties expressly or impliedly imposed upon common carriers should be exacted of them. Held, not a delegation of legislative power. Colo. Co. vs. Railroad Com., 54 Colo., 64.

8. Under the provision of the constitution (Section 1, Article V, Laws, 1911, Chapter 3), that "This section shall not be construed to deprive the general assembly of the right to enact any measure," the legislature may repeal

even an initiated act, approved by the people. And may by declaring that a measure is "necessary for the immediate preservation of the public peace, health and safety," prevent the reference thereof to the people. Such a declaration concludes all departments and all parties, in so far as it abridges the right to invoke the referendum. In re Senate Resolution, 54 Colo., 263.

9. An act declaring that every sentence and clause thereof is "necessary for the immediate preservation of the public peace, health and safety," cannot be referred to the people.

The clause in question, commonly called the safety clause, may be enacted by a mere majority vote. In the absence of the emergency clause, the statute, in such case, takes effect after ninety days from the adjournment of the session. *People vs. Ramer*, 61 Colo., 422.

10. A declaration by the general assembly that an enactment is "necessary for the immediate preservation of the public peace, health and safety," is conclusive, and not subject to review by the courts. *Van Kleeck vs. Ramer*, 62 Colo., 4.

11. Acts of the general assembly which are referable under amended Section 1 of Article V of the Constitution (Laws, 1910, Chapter 3) take effect at the expiration of ninety days from the adjournment of the session, and not before, even though bearing emergency clause (Constitution, Article V, Section 19). Interrogatories of the Governor, 66 Colo., 319.

12. Acts not referable and not bearing the emergency clause, take effect at the expiration of ninety days from their passage. Interrogatories of the Governor, 66 Colo., 319.

13. Acts bearing both the safety and emergency clause take effect immediately upon their approval by the governor. Interrogatories of the Governor, 66 Colo., 319.

14. **Referendum**, does not extend to resolutions. In view of the precise words of Section 1 of Article V of the Constitution by which the referendum is extended to any act, or part of an act; that the petition shall be filed within a specified period from the adjournment of the session of the general assembly that passed the bill on which referendum is demanded, and that the filing of a referendum petition, against any act, or part of any act shall not delay the remainder of the act from becoming operative, held that the referendum is not granted to a mere resolution; e.g., amendment proposed by Congress to the Federal Constitution. *Prior vs. Noland*, 68 Colo., 265.

15. The people have no power to ratify amendments proposed to the Federal Constitution, and therefore cannot exercise the referendum upon such resolution adopted by the legislature. *Prior vs. Noland*, 68 Colo., 262, 264.

**Sec. 2. Election of members—Vacancies.**—An election for members of the general assembly shall be held on the first Tuesday in October, in the years of our Lord 1876 and 1878, and in every alternate year thereafter, on such day, at such places in each county as now are or hereafter may be provided by law. The first election for members of the general assembly under the state organization, shall be conducted in the manner prescribed by the laws of Colorado Territory, regulating elections for members of the legislative assembly thereof. When vacancies occur in either house, the governor, or person exercising the powers of governor, shall issue writs of election to fill such vacancies.

No annotations under this heading.

**Sec. 3. Terms of senators and representatives.**—Senators shall be elected for the term of four years, except as hereinafter provided, and representatives for the term of two years.

No annotations under this heading.

**Sec. 4. Qualifications of members—General assembly.**—No person shall be a representative or senator who shall not have attained the age of twenty-five years, who shall not be a citizen of the United States, who shall not for at least twelve months next preceding his election, have resided within the territory included in the limits of the county or district in which he shall be chosen; *Provided*, That any person who at the time of the adoption of this constitution, was a qualified elector under the territorial laws, shall be eligible to the first general assembly.

No annotations under this heading.

**Sec. 5. Classification of senators.**—The senators at their first session, shall be divided into two classes. Those elected in districts designated by even numbers shall constitute one class; those elected in districts designated by odd numbers shall constitute the other class, except

that senators elected in each of the districts having more than one senator shall be equally divided between the two classes. The senators of one class shall hold for two years, those of the other class shall hold for four years, to be decided by lot between the two classes, so that one-half of the senators, as near as practicable, may be biennially chosen forever thereafter.

No annotations under this heading.

**Sec. 6. Compensation of members of general assembly.**—Each member of the general assembly, until otherwise provided by law, shall receive as compensation for his services the sum of one thousand (\$1,000) dollars for each biennial period, payable at the rate of \$7.00 per day during both the regular and special sessions, the remainder, if any, payable on the first day of the last month of each biennial period; together with all actual and necessary traveling expenses to be paid after the same have been incurred and audited, and the said members of the general assembly shall receive no compensation, perquisite or allowance whatever. No general assembly shall fix its own compensation.

[Amended section as proposed by L. 1909, p. 314. Adopted November, 1910.]

1. The Supreme Court takes judicial notice of the time when a session of the general assembly will expire by limitation of law. (Decision under this section as it originally appeared.) In re S. B. No. 416, 45 Colo., 344, 395.

2. Probably this section as it originally stood, comes within the exception above and permitted hold-over senators of the First General Assembly to have had their salaries increased in the Second General Assembly. Carlisle vs. Henderson, 17 Colo., 532, 537.

**Sec. 8. Members precluded from holding office.**—No senator or representative shall, during the time for which he shall have been elected be appointed to any civil office under this state; and no member of congress, or other person holding any office (except of attorney-at-law, notary public, or in the militia) under the United States or this state, shall be a member of either house during his continuance in office.

1. This section only prohibits a senator from being appointed to a civil office, not his election thereto. Carpenter vs. People, 8 Colo., 129.

2. Elected and appointed are not used synonymously in the constitution, but with due regard to the primary and proper significance. Idem.

3. Chapter 161 of the Laws of 1915, providing for the appointment for the survey committee of state affairs, imposes upon the committee no duty but the making of investigations and recommendations directed to the more efficient and economical management of state institutions, and departments, and is not in violation of Article III, or the eighth, or the eighth section of Article V of the Constitution. Mulnix vs. Elliott, 62 Colo., 46.

**Sec. 30. Extension of term and increase of salary of public officers.**—Except as otherwise provided in this constitution, no law shall extend the term of any public officer, or increase or diminish his salary or emoluments after his election or appointment; *Provided*, That on and after the first day of March, A. D. 1881, the salaries of the following designated public officers, including those thereof who may then be incumbents of such offices, shall be as herein provided, viz.:

The governor shall receive an annual salary of five thousand dollars, and the further sum of fifteen hundred dollars for the payment of a private secretary.

The judges of the supreme court shall each receive an annual salary of five thousand dollars.

The judges of the district courts shall each receive an annual salary of four thousand dollars.

[Amended section as proposed by L. '81, p. 63. Adopted November 7, 1882.]

1. A bill not to extend the term, but to fix the commencement of the term of office of county treasurers, does not conflict with this section. In re H. B. No. 38 as to County Treasurers, 9 Colo., 631.

2. If such a bill become a law, its effect is to leave a vacancy as to the time between the ending of the old term and the beginning of the new. Idem.

3. "Election" in the above section explained. *Carlile v. Henderson*, 17 Colo., 532.

4. See *Sipe vs. People*, 26 Colo., 127.

5. The statute fixing the fees of district attorneys does not apply to deputy district attorneys and in the absence of a provision for compensation of a deputy district attorney by the board of county commissioners, he is not entitled to compensation for his services. And where at the time of the appointment of a deputy district attorney no compensation has been fixed by the board of county commissioners the board could fix such compensation after his appointment without in any way violating the provisions of Section 30, Article V, of the Constitution which forbids the enactment of a law that increases or diminishes the salary or emoluments of a public officer after his election or appointment. *Merwin vs. Boulder Co.*, 29 Colo., 169.

6. Section 30, Article V, Colo., const., providing that, except as otherwise provided in the Constitution, no law shall extend the term of any public officer or increase or diminish his salary after his election, does not restrict the power of the people to amend the constitution; and hence Section 3, Article XX, Colorado Constitution, providing that the terms of all officers of the City and County of Denver should terminate on the consolidation of the city and county, deprived the city attorney of his office and right to further salary, although the term for which he was elected had not yet expired. *Orahood vs. Denver*, 41 Colo., 172.

7. Plaintiff was elected to the office of county judge of a county which was then in a class in which the salary of that office was declared to be a sum named, and "no more."

During his term of office the county was transferred to another class in which the county judge was, by statute, entitled to an allowance for clerk hire. Held, that under the constitution, Section 30, Article V, the plaintiff was not entitled to this allowance. *Henderson vs. County of Boulder*, 51 Colo., 364.

8. The Constitution provides that the salary of the lieutenant governor shall not be increased during his official term. The officer keeping no books, records, or office, and having no duties to perform except to preside at the meetings of the Senate, held, that an appropriation made by the legislature to this officer, "for official or semi-official purposes," was void.

No official of the state except members of the legislature, and no county officials, except the county commissioners, are entitled to an allowance for traveling expenses. *Leckenby vs. Post Co.*, 65 Colo., 443.

9. The relator was appointed chief inspector of coal mines for a term of four years. Subsequently the Civil Service Amendment to the Constitution was adopted, by which his position came into the classified civil service, and all offices included therein were graded and compensated according to standards of efficient service. Held, that a subsequent increase of the salary of the officer, by act of the legislature, was not prohibited by Section 30 of Article V of the Constitution. *People vs. Stong*, 67 Colo., 599.

## ARTICLE VI.—JUDICIAL DEPARTMENT.

**Section 1. Vestment of judicial power—Recall of decisions.**—The judicial power of the state as to all matters of law and equity, except as in the constitution otherwise provided, shall be vested in the supreme court, district courts, county courts, and such other courts as may be provided by law. In counties and cities and counties, having a population exceeding one hundred thousand, exclusive original jurisdiction in cases involving minors and persons whose offenses concern minors may be vested in a separate court now or hereafter established by law. None of said courts except the supreme court shall have any power to declare or adjudicate any law of this state or any city charter or amendment thereto adopted by the people in cities acting under Article XX hereof as in violation of the Constitution of this state or of the United States; provided that before such decision shall be binding it shall be subject to approval or disapproval by the people, as follows: Such decision shall be filed in the office of the clerk of the supreme court within ten days after it is finally made. If it concerns a state law it shall not be binding until sixty days after such date. Within said sixty days a referendum petition, signed by not less than five per cent. of the qualified electors, addressed to and filed with the secretary of state, may request that such law be submitted to the people of this state for adoption or rejection at an election to be held in compliance herewith. The secretary of state shall cause to be published the text of such law or part thereof, as constitutional amendments are published, as near as may be, and he shall submit the same to the people at the first general election held not less than ninety days after such petition shall have been filed; provided that provision may be made by law for also submitting such laws or parts thereof at a

special election. All such laws or parts thereof submitted as herein provided when approved by a majority of the votes cast thereon at such election shall be and become the law of this state notwithstanding the decision of the supreme court, to take effect from and after the date of the declaration of the vote thereon by proclamation of the governor, not less than thirty days after the vote has been canvassed.

If such decision concerns a charter or an amendment thereto of a city or city and county acting under Article XX of this constitution, it shall not be binding until sixty days after it has been filed in the office of the clerk of said court. Within said sixty days a referendum petition, signed by not less than five per cent. of the qualified electors of such city or city and county, addressed to and filed with the legislative body of said city or city and county, may request that such charter or amendment thereto be submitted to the people of such city or city and county for their adoption or rejection. It shall be the duty of said legislative body to publish the text of such charter or amendment thereto as initiative ordinances are published as near as may be and submit such charter or amendment thereto to the people of such city or city and county, at an election to be called by said legislative body not less than sixty days after the filing of said petition, unless there should be under the charter of said city or city and county a regular election to be held for the election of officers of said city or city and county within said sixty days, in which event such charter or amendment thereto may be submitted to the vote of the people at such regular election. All such charters, or amendments thereto, so submitted as herein provided, when approved by a majority of the votes cast thereon in said city or city and county, shall be and become the law of this state and of said city or city and county notwithstanding the decision of the supreme court, to take effect from and after the date of the declaration of the vote thereon by proclamation of said legislative body not less than thirty days after the vote has been canvassed. The whole number of votes cast for governor at the regular general election last preceding the filing of any petition to submit a state law under the provisions hereof, and, if a charter or amendment thereto, the whole number of votes cast for that officer receiving the highest vote cast at the last preceding general election for officers of such city or city and county requesting such submission shall be the basis on which the number of qualified electors necessary to sign such petition shall be counted.

Any petition herein provided for may be circulated and signed in sections, provided each section shall contain a full and accurate copy of the title and text of the law, or charter, or amendment thereto, which it is proposed to submit. The signatures to such petition need not all be on one sheet of paper, but each signer must add to his signature the date of his signing said petition, and his place of residence, giving his street number, if any, should he reside in a town or city. The person circulating such sheet must make and subscribe an oath on said sheet that the signatures thereon are genuine, and a false oath, wilfully so made and subscribed by such person, shall be perjury and punished as such. All petitions shall be deemed and held to be sufficient if they appear to be signed by the requisite number of signers, and such signers shall be deemed and held to be qualified electors unless a protest in writing, under oath, shall be filed in the office in which such petition has been filed, by some qualified elector, within fifteen days after such petition is filed, setting forth specifically the ground of such protest, whereupon the officer with whom such petition is filed shall forthwith forward a copy of such protest to the person or persons named in such petition as representing the signers thereof, together with a notice fixing a time for hearing such protest not less than five nor more than ten days after such notice is made. All hearings shall be before the officer with whom such protest is filed, and all testimony shall be under oath. Such hearings shall be summary and not subject to delay, and must be concluded within thirty days after such petition is filed, and the result thereof shall be forthwith certified to the person or persons representing the signers of such petition. In case the petition is not sufficient it may be withdrawn by the

person or a majority of the persons representing the signers of such petition, and may, within fifteen days thereafter, be amended and refiled as an original petition. The findings as to the sufficiency of any petition may be reviewed by any state court of general jurisdiction in the county in which such petition is filed, upon application of the person, or a majority of the persons, representing the signers of each petition, but such review shall be had and determined forthwith.

When any petition contains a form of submission of a law, charter, or amendment thereto, petitioned to be referred, when such form is a reasonably fair description thereof, the same shall be placed on the ballot, and no petition filed subsequent thereto shall be permitted to use any form of submission that is so similar to the one previously filed as to tend to confuse the voter, and in case of conflict the person or a majority of persons representing the subsequent petition may file a form of submission, provided the same shall be fairly descriptive of the law, city charter, or amendment thereto, petitioned to be submitted and not in conflict with any prior forms of submission nor tend to confuse the voter. Legislation may be enacted to facilitate the operation of this article, but in no way limiting or restricting the provisions hereof, or the powers herein reserved.

In submitting such laws the secretary of state and all other officers shall be guided by the general laws so far as applicable, and the vote thereon as to state laws shall be canvassed and the result determined in the manner prescribed by law for the canvass of votes for representatives in congress. In submitting a city charter, or an amendment thereto, the vote thereon shall be canvassed and the result determined in the manner prescribed by the charter or law governing any such city or city and county for the canvass of votes for officers elected in such city or city and county.

[Amended section as proposed by Initiative Petition and adopted November 5, 1912.]

1. The creation of the office of police judge for a city or incorporated town is within the legislative authority; and the election of such officer may, by law, be conferred upon the municipal authorities of cities of certain classes; but the creation of a judicial officer by name merely, without defining his duties and providing the manner of their exercise, does not constitute a court. In the absence of statutory authority the city council cannot establish jurisdiction and provide for the exercise of judicial functions. *People vs. Curley*, 5 Colo., 412.

2. The judicial and legislative departments are co-ordinate branches of the government. Each is a like superior in the exercise of its proper function. *People vs. Rucker*, 5 Colo., 458.

3. The office of police judge, with jurisdiction to enforce town ordinances, is authorized by Section 1, Article VI, of the Constitution. *People ex rel. Mills vs. Jobs*, 7 Colo., 475.

4. Where an officer was recognized under the organic act of the territory, and where the same office is recognized under the State Constitution, it is a matter of no consequence that the existence thereof under the former instrument was by virtue of certain powers conferred upon justices of the peace, while under the latter its validity depends upon a provision relating to judicial officers for cities and towns. *People ex rel. Mills vs. Jobs*, 7 Colo., 589.

5. The superior court of Denver is not of the same class or grade as the district court of the state, within the meaning of the constitution. Section 1 of Article VI of the Constitution authorizes the creation of the superior court of Denver. *Darrow vs. People*, 8 Colo., 417.

6. That part of Section 192 of the Code of Civil Procedure authorizing the clerk to enter judgment upon a referee's report is not, as an attempt to make the finding of the referee the finding of the court without its submission to the court, a violation of Article VI, Section 1, of the State Constitution relative to the judicial power. *Terpening vs. Holton*, 9 Colo., 806.

7. A bill creating a "Court of Appeals," the decisions of which shall have the same force and effect as the decisions and opinions of the supreme court, is unconstitutional. In re S. B. No. 76 as to a Court of Appeals. 9 Colo., 623.

8. The jurisdiction lodged in the supreme court by the Constitution cannot be transferred to another court created by the legislature, in any manner so as to make its decisions and opinions final. *Idem* 624.

9. Two such courts with like jurisdiction and powers is not contemplated by the Constitution. *Idem*.

10. The courts have concurred jurisdiction to judge of the classifications, elections, etc., of members of the City Council of Denver. Each board of the said council is sole judge in each case. *Darrow vs. People*, 8 Colo., 422; *Board of Aldermen vs. Darrow*, 13 Colo., 465.

11. Section 1, Article VI, of the Constitution, as amended, recognizes the legislative right to create a court of review, but no such court can be clothed with final jurisdiction co-ordinate with the supreme court. *People vs. Richmond*, 16 Colo., 274.

12. The court of appeals created by the act under consideration is subject to the superintending control, and guided by decisions of the supreme court. *People vs. Richmond*, 16 Colo., 274.

13. The Constitution confers and defines the jurisdiction of the supreme court, but does not inhibit the legislature from regulating, to some extent, the quantum of its business by reasonably contracting or enlarging the limits of such jurisdiction. The constitutional policy is not to specify absolutely the extent and boundaries of the jurisdiction of all courts, but to allow a large legislative discretion in connection therewith. *People vs. Richmond*, 16 Colo., 274.

14. The act of 1891 authorizing an additional justice of the peace in precincts having a population of over twenty thousand was a valid exercise of legislative power. *Pueblo Co. vs. Smith*, 22 Colo., 534.

15. The passing on claims against a county by the board of county commissioners is an administrative or legislative, rather than a judicial act, and the statute giving to the board discretionary power to allow or disallow fees in criminal trials and examinations before justices of the peace, is not unconstitutional as purporting to confer upon the board judicial power. *Merwin vs. Boulder Co.*, 29 Colo., 169.

16. The provision of the Act of April 4, 1887, is not repugnant to the Constitution as an attempt to vest judicial power in the state engineer and assisting surveyors, or to authorize the deprivation of a person's property without due process of law. *Hinsdale Co. vs. Mineral Co.*, 9 Colo. App., 368.

17. If, through any fraud, deceit or misrepresentation, any party or parties shall procure the issuing of any lease for state lands, the board shall have the authority to cancel any such lease, is not unconstitutional on ground that it confers upon the state land board judicial power, and the land board has authority under the statute to proceed to investigate an alleged fraudulent lease, to hear witnesses and, if convinced that such lease was procured through fraud, to cancel the lease. But the action of the board is not final. *Am. Sulphur & Min. Co. vs. Brennan*, 20 Colo. App., 439.

18. An action brought in the district court to assume jurisdiction over and supervise a state and county election, cannot be maintained, such jurisdiction being vested by the Constitution in the supreme court. *Aichele vs. People*, 40 Colo., 482, 486.

19. The policy of the Constitution was not to specify absolutely the extent of the jurisdiction of all the courts, but to allow a large legislative discretion. *People ex rel. vs. Scott*, 52 Colo., 59, 67.

20. Neither this department nor the legislative has any right to leave its own sphere, nor assume directly a superior power nor another when that other is in the exercise of its authority. *Speer vs. People*, 52 Colo., 325, 335.

21. The court has the power to determine what the character of registration is, what the Constitution contains but not what it should contain. *Idem* 339.

22. The use of the words "district," "county" and "criminal," in the sections of this article as prefixes to the word "courts" has no other qualification than to give appropriate names of tribunals of government. The officers do not thereby become officers of the respective entities that bar such prefixes. *Dixon vs. People*, 53 Colo., 527.

23. The amendment of Section 1 of Article VI of the Constitution by initiation in 1912 (Laws 1913, p. 678) had not the effect to repeal the provisions of Section 1 of the schedule to the Constitution, continuing the then statutory provisions establishing the office of justice of the peace. *Court-right Pub. Co. vs. Bray*, 67 Colo., 588.

24. A district court of the state is bound by the mandate of the Federal Constitution (Article VI, par. 2) to apply that instrument upon all proper occasions and hold it to be the supreme law of the land, and to determine whether or not state legislative acts violate it, notwithstanding Constitution Article VI, Section 1 (see Laws 1913, p. 678), providing that no court except the supreme court shall have any power to declare any law of the state in violation of the Constitution of the state or of the United States, in view of Constitution Article XII, Section 8. *People vs. West. Union Tel. Co.*, 198 Pac., 146.

25. When a federal constitutional question is raised in any of the trial courts of Colorado, the right is given and the duty is imposed on those courts by that instrument itself (Article VI, par. 2), to adjudicate and determine it, and the right so given can neither be taken away nor that duty abrogated by the State Constitution or otherwise, and any adjudication of the supreme court of the state on such a question cannot be reviewed by popular vote of the citizens or one of its municipalities under Constitution, Article VI, Section 1 (see Laws 1913, p. 678), and the supreme court in passing on such a question is under the necessity, in view of Constitution, Article VI, Section 2, to declare what effect is to be given its decision, in order that the clerk may know whether or not it be his official duty to file the decision

as therein provided, and in order that reporter may know whether it is to be published with the other decisions of the court, or held in abeyance pending a possible recall. *People vs. West. Union Tel. Co.*, 198 Pac., 146.

26. Where in criminal prosecution, defendants demurred to information on the ground that the statute in question violated federal and state Constitutions, and court determined that, in view Constitution, Article VI, Section 1 (see Laws 1913, p. 678), he did not have authority to do anything, and sustained the motion to quash and demurrer, and the state prosecuted a writ of error under Revised Statutes, 1908, Section 1917, and it was claimed that lower court dismissed the cause without passing upon the issue raised, and that the writ of error must be dismissed because state court had no original jurisdiction in the matter, the supreme court could dispose of the question irrespective of whether the cause be considered before its original jurisdiction, on review, or neither, in view of Constitution, Article VI, Section 2, vesting in it "a general superintending control over all inferior courts." *People vs. Max.*, 198 Pac. Rep., 150.

27. That portion of Constitution, Article VI, Section 1 (see Laws 1913, p. 678), taking from all courts of the state except the supreme court the power to construe the state or federal Constitutions, is indivisible; and for the simple reason that it is invalid as to the federal constitutional questions, it is likewise invalid as to state constitutional questions. *People vs. Max.*, 198 Pac. Rep., 150.

28. Constitution, Article VI, Section 1 (see Laws 1913, p. 678), withdrawing from all the state courts except the supreme court power to pass on state constitutional questions, is invalid as to one charged with crime under a statute, because it deprives him of due process of law, notwithstanding Laws, 1913, Chapter 121, giving the supreme court power to prescribe rules of practice and procedure in all courts of record. *People vs. Max.*, 198 Pac. Rep., 150.

29. The recall provisions of Constitution, Article VI, Section 1, (see Laws, 1913, p. 678.), withdrawing from all courts of the state except the supreme court the power to pass on constitutional questions, are null and void, since, if the people cannot by statute or constitutional enactment deny to any person "due process of law," no more can they accomplish the same object by popular vote under the guise of the recall of a court decision. *People vs. Max.*, 198 Pac. Rep., 150.

30. The portion of Constitution, Article VI, Section 1, as amended (see Laws, 1913, p. 678), providing that; "The judicial power of the state as to all matters of law and equity, except as in the constitution otherwise provided, shall be vested in a supreme court, district courts, county courts, and such other courts as may be provided by law. In counties and cities and counties, having a population exceeding one hundred thousand, exclusive original jurisdiction in cases involving minors may be vested in a separate court now or hereafter established by law"—is valid, but the remainder of such section is null and void, and no part of the constitution. *People vs. Max.*, 198 Pac. Rep., 150.

**Sec. 6. Election of judges.**—The judges of the supreme court, except as herein provided, shall be elected by the electors of the state at large.

[Amended section as proposed by L. '03, p. 149. Adopted November 8, 1904.]

1. Judges of the district court who are elected at the regular sexennial election hold their offices for the term of six years, and those elected to fill a vacancy hold only for the unexpired term. *People ex rel. Bentley vs. Le Fevre*, 21 Colo., 218.

**Sec. 7. Term of office.**—The term of office of the judges of the supreme court, hereafter elected, except as in this article otherwise provided, shall be ten years.

[Amended section as proposed by L. '03, p. 149. Adopted November 8, 1904.]

1. See note 1 under Section 6 above.

**Sec. 8. Appointment and election of judges.**—No successor of the judge of the court of appeals whose term expires in April, 1905, shall be appointed.

On the first Wednesday of April, 1905, the court of appeals shall cease to exist, and the judges of said court whose regular terms shall not then have expired shall become judges of the supreme court. All causes pending before the court of appeals shall then stand transferred to, and be pending in, the supreme court, and no bond or obligation given in any of said causes shall be affected by said transfer.

The term of office of that judge of the supreme court whose term expires on the second Tuesday in January, 1907, shall so expire; the term of office of that judge transferred from the court of appeals whose terms would expire in April, 1907, shall expire on the second Tuesday in January, 1907; and the term of office of that judge of the supreme court whose term expires in January, 1910, is hereby extended to the second Tuesday in January, 1911; and the term of office of the judge or judges transferred from the court of appeals whose term would expire in April, 1909, shall expire on the second Tuesday in January, 1909; and the term of office of the judge of the supreme court whose term expires on the second Tuesday in January, 1913, shall so expire.

At the general election in the year 1906 and every tenth year thereafter, there shall be elected two judges of the supreme court.

At the general election in the year 1908, there shall be elected three judges of the supreme court, one for the term of six years, and two for the term of ten years.

At the general election in the year 1910 and every tenth year thereafter, there shall be elected one judge of the supreme court.

At the general election in the year 1912 and every tenth year thereafter, there shall be elected one judge of the supreme court.

At the general election in the year 1914 and every tenth year thereafter, there shall be elected one judge of the supreme court.

At the general election in the year 1918 and every tenth year thereafter, there shall be elected two judges of the supreme court.

*Provided*, That if said court of appeals shall at the time of the going into effect of this amendment, by law consist of only three judges, the governor shall nominate and by and with the advice and consent of the senate appoint two judges of the supreme court, whose term of office shall begin on the first Wednesday of April, 1905, and expire on the second Tuesday of January, 1909.

*Provided also*, That nothing herein contained shall be construed to prevent the general assembly from changing the time of electing judges of the supreme court and from extending or abridging their terms of office as provided in Art. VI, section 15 of the constitution of this state.

The judge having the shortest time to serve, not holding his office by appointment or election to fill vacancy, shall be the chief justice.

Of the two judges whose terms of office expire upon the same day, the younger in years of the two judges shall be the chief justice during the next to the last year of his term of office and the elder of the two judges shall be chief justice during the last year of his term of office.

The chief justice shall provide at all sessions of the court en banc, and, in case of his absence, then the judge present who would next be entitled to become chief justice shall preside.

Until otherwise provided by law, the supreme court shall have power to review the judgments and proceedings of inferior courts, in such instances and in such manner as was provided by law previous to the act establishing the court of appeals.

[Amended section as proposed by L. '03, p. 149. Adopted November 8, 1904.]

1. See note one under Section 6, supra.

**Sec. 15. Election of judges—District court—Term.**—The judges of the district court first elected shall be chosen at the first general election. The general assembly may provide that after the year eighteen hundred and seventy-eight, the election of judges of the supreme, district and county courts, and the district attorneys, or any of them, shall be on a different day from that on which an election is held for any other purpose, and for that purpose may extend or abridge the term of office of any such officers then holding, but not in any case more than six months. Until otherwise provided by law, such officers shall be elected at the time

of holding the general elections. The terms of office of all judges of the district court, elected in the several districts throughout the state, shall expire on the same day; and the terms of office of the district attorneys elected in the several districts throughout the state shall, in like manner expire on the same day.

1. The Constitution of Colorado, Article VI, Section 12, provides that district judges shall be elected for a term of six years. Section 15 provides that the terms of all the district judges shall expire on the same day. Section 29, providing for vacancies, authorizes those elected to hold their office for the unexpired term. Section 14, as it stood in 1878, provided for an increase in the number of districts and judges not oftener than once in six years. By the amendment of 1886 such increase can be made at any legislative session, and such an increase was made in 1887. *Held*, that, in order to cause the expiration of all terms on the same day, the provision of Section 12 is to be considered as so far modified that the judges of new districts, and additional judges of old districts, hold only until the next regular election of judges. In re Election of District Judges, 11 Colo., 373.

#### District Attorney.

**Sec. 21. Election—Term—Salary—Qualification.**—There shall be elected by the qualified electors of each judicial district, at the general election in the year nineteen hundred and four, and every four years thereafter, a district attorney for such district, whose term of office shall be four years, and whose duties and salary or compensation, either from the fees or emoluments of his office or from the general county fund, as shall be provided by law.

No person shall be eligible to the office of district attorney who shall not, at the time of his election, be at least twenty-five years of age and possess all the qualifications of judges of the district courts, as provided in this article. The term of office of the district attorneys serving in the several districts, at the time of the adoption of this amendment, is hereby extended to the second Tuesday of January, in the year A. D. 1905.

[Amended section as proposed by L. '01, p. 110. Adopted November 4, 1902.]

1. It is the duty of the district attorneys to appear in the district courts of their respective districts on behalf of the state. *The A., T. & S. F. R. R. Co. vs. People*, 5 Colo., 60.

2. The district attorney must be a licensed attorney. *People vs. Hallett*, 1 Colo., 357.

3. Election and appointment are the only constitutional ways of filling office of district attorney. *People vs. Annis*, 10 Colo., 54.

4. While it is not decided that by detaching the county in which the district attorney, in a given judicial district resides and attaching such county to a new judicial county, that such district attorney can be legislated out of the office for which he was constitutionally elected, still it is decided he does not in virtue of the premises become legislated into the office of district attorney of the new judicial district. *Idem* 55.

5. The person duly appointed by a judge of a new district becomes the district attorney of such district. *Idem*.

6. A district attorney is a state officer, provided for by this section, whose general duties are set forth in Section 2221, but who has many additional duties set forth in Section 2223. *Shumate vs. Co. Com.*, 1 Colo., Dec. Supp., 54, 56.

#### County Court.

**Sec. 22. Judge—Election—Term—Salary.**—There shall be elected at the general election in each organized county in the year nineteen hundred and four, and every four years thereafter, a county judge, who shall be judge of the county court of said county, whose term of office shall be four years, and who shall be paid such salary or compensation, either from the fees and emoluments of his office or from the general county fund, as shall be provided by law.

The term of office of the county judge serving at the time of the adoption of this amendment is hereby extended to the second Tuesday of January, in the year A. D. 1905.

[Amended section as proposed by L. '01, p. 111. Adopted November 4, 1902.]

1. The term "county courts" in the Constitution of Colorado (Sections 22 and 23, Article VI), has a distinct meaning, and designates a district court, and cannot, by any rules of interpretation, be made to include the criminal court. *People vs. Rucker*, 5 Colo., 455.

2. County judges are not required to be learned in the law, many of them not even being licensed practitioners. *People vs. Richmond*, 18 Colo., 274, 283.

3. County judges are county officers within the meaning of the constitution. In re Compensation of County Judges, 18 Colo., 272.

4. See note 1 under Section 6, supra.

5. The provisions of the charter of the City and County of Denver, adopted March 29, 1904, increasing the number of judges of the county court to two and changing the time of election of such judges are invalid and inoperative, and one elected to fill the additional office provided for by said charter is not entitled to hold and exercise the office of county judge of the City and County of Denver. *People vs. Johnson*, 34 Colo., 143.

6. A county judge, acting under the charter provisions of a city increasing the number of judges to two, which are unconstitutional, is a de facto officer and his acts in discharge of his duties are valid. *Butler Adm. vs. Phillips*, 38 Colo., 378, 387; *Rude vs. Sisack*, 44 Colo., 21, 27.

7. All the officials designated as county officers are enumerated in Section 6 of Article XIV. The judge of the county court is not of the number and considering the provisions of Article VI it is manifest that the judge of the county court is no more an officer of the county in which he exercises judicial functions than is the judge of the district court an officer of the district, in the courts where he presides. Each is an officer of the state. The prefix "district," "county," or "criminal," as used in Article VI, has in each case no significance whatever, save to confer an appropriate name to these respective tribunals of government, and in no sense implies that the persons are chosen to preside in such tribunals become officers of the respective agencies which bear these territorial designations. *Dixon vs. People*, 53 Colo., 527.

**Sec. 29. Where officers must reside—Vacancies.**—All officers provided for in this article, excepting judges of the supreme court, shall respectively reside in the district, county, precinct, city or town for which they may be elected or appointed. Vacancies occurring in any of the offices provided for in this article shall be filled by appointment as follows: Of judges of the supreme and district courts, by the governor; of district attorneys, by the judge of the court of the district for which such attorney was elected; and of all other judicial officers, by the board of county commissioners of the county wherein the vacancy occurs. Judges of the supreme, district and county courts appointed under the provisions of this section shall hold office until the next general election and until their successors elected thereat shall be duly qualified.

[Amended section as proposed by G. L. '77, p. 132. While there is no record of the vote on this amendment, it is supposed to have been adopted October 1, 1878.]

1. The Constitution of Colorado, neither by express words nor necessary implication, requires that all judicial officers shall be elected; and in the absence of constitutional restraint the power of the general assembly to declare the office of criminal judge either selective, or appointive, in their discretion, was plenary. *People vs. Rucker*, 5 Colo., 455.

2. The office of criminal judge is "provided for" in Article VI of the Constitution, and is therefore included in Section 29 of said article. An existing office without an incumbent may be vacant, whether it be a new or an old one. The legislative authority to create the office of criminal judge, and vest the original appointment in the governor, by and with the advice and consent of the senate, is undoubted. The senate not being in session when the act became a law, the governor had no right to appoint, and the office existing without an incumbent, was vacant. This "vacancy" can be filled only by appointment by the county commissioners, as provided in Section 29, Article VI, of the Constitution. *People vs. Rucker*, 5 Colo., 455.

3. See note 1 under Section 15, supra.

4. See note 3 under Section 22, supra.

5. See note 1 under Section 6, supra.

6. Section 29, Article 6, of the Constitution, which provides that all judicial officers, excepting judges of the supreme court, shall reside in the district, county, precinct, city or town for which they are elected or appointed, requires that a district judge shall maintain his actual residence in his district as distinguished from a legal constructive residence or domicile. But where a district judge for eight months after the beginning of his term on account of his health and on the advice of physicians has lived out of his district as much of the time as his actual presence was not needed in the district, and it is his *bona fide* intention to return and maintain his actual residence in the district as soon as his health will permit, although the time when he will be able to return is not definite, it is held not sufficient to work a forfeiture of his office. *People vs. Owers*, 29 Colo., 535.

7. The naked declaration of a district judge of his intention to maintain his actual residence in his district would not be conclusive of the question. *People vs. Owers*, 29 Colo., 535.

8. If, according to the terms of the statute, the office of a justice of the peace must be held within particular limits, and he holds it elsewhere, mandamus does not lie to compel him to remove and hold it within the limit designated by statute. *Chapman vs. People*, 9 Colo. App., 268.

9. The court having received information from the county clerks of many of the counties, that, as shown by the records and memorials contained in their respective offices, the amendment proposed by Article XVII of General Laws, 1877, to Section 29 of Article VI, was in fact submitted to the people at the succeeding general election, and being convinced beyond doubt from these sources of information, and the recognition of the amendment in the early decisions of this court, when the matter must have been of common knowledge (5 Colo., 455, 457; id 487, 490; 6 Colo., 92, 93; 11 Colo., 373, 376) that in fact the amendment so proposed received the popular sanction, declared it to be part of the fundamental law, though no evidence whatever of its submission or adoption was found in the office of the secretary of state. *Harri-son vs. People*, 57 Colo., 137.

## ARTICLE VII.—SUFFRAGE AND ELECTIONS.

### Section

1. Qualifications of elector.
2. Suffrage to women.
3. Educational qualifications of elector.
4. When residence does not change.
5. Privilege of voters.
6. Electors only eligible to office.
7. General election.

### Section

8. Elections by ballot or voting machine.
9. No privilege to witness in election trial.
10. Disfranchisement during imprisonment.
11. Purity of elections.
12. Election contests—By whom tried.

**Section 1. Qualifications of elector.**—Every person over the age of twenty-one years, possessing the following qualifications, shall be entitled to vote at all elections: He or she shall be a citizen of the United States, and shall have resided in the state twelve months immediately preceding the election at which he offers to vote, and in the county, city, town, ward, or precinct, such time as may be prescribed by law.

[Amended section as proposed by L. '01, p. 107. Adopted November 4, 1902.]

1. The constitutional rights and privileges of the electors cannot be infringed under the guise of regulation. *People vs. District Court*, 18 Colo., 26, 37.

The words **elections** in Section 1, Article VII, of the Constitution, is not used in its general or comprehensive sense, but in its restricted political sense, meaning public elections for the choice of public officers.

A statute requiring the question of the annexation of a town or city to be submitted to the determination of such qualified electors of the municipality as have in the year next preceding paid a property tax therein, is not unconstitutional. *Mayor vs. Shattuck*, 19 Colo., 203.

3. An essential qualification of a voter is that he shall have resided in the state six months, in the county ninety days and in the ward or precinct ten days immediately preceding the election at which he offers to vote. *Sharp vs. McIntire*, 23 Colo., 99.

4. "Residence," within the meaning of the constitution and the statute prescribing the qualifications of electors, is synonymous with "home" or "domicile." To constitute a place of inhabitancy such residence requires its adoption as a fixed and permanent habitation, and not only a personal presence for the requisite time, but a concurrence therewith of an intention to make such place the true home. *Sharp vs. McIntire*, 23 Colo., 99.

5. One who has a home or domicile in another state or territory cannot by a sojourn here, however long, acquire a residence in this state within the meaning of the constitution and statute, without abandoning his former domicile. *Sharp vs. McIntire*, 23 Colo., 99.

6. This section referred to as being modified by Article XIV, Section 2. In case of a question as to the removal of a county seat. *Board of County Commissioners, Eagle County vs. Love*, 26 Colo., 297, 305.

7. A student who came into the state for the purpose of attending school, and resided in the county and precinct within which the school was situated for more than six months and intended to so reside until he completed the course of four years, but did not intend to reside in said county after completing the course of study, and was without intention as to what place he would make his permanent habitation, was not a resident within the meaning of the constitution and was not a legal voter in the precinct where the school was located. *Parsons vs. People*, 30 Colo., 388.

8. Where parties make a trip to this state, buy land, then return to their old home for six or seven months, that period cannot be counted as residence here for purpose of voting. *People vs. Turpin*, 49 Colo., 234, 238.

9. Under the Constitution (Section 5, Article II, Section 1, Article VII), every qualified elector has the equal right to cast a ballot for the person of his own selection, and nothing can lawfully prevent the exercise of this right. Legislative regulation of the franchise cannot extend to deny its exercise, or trammel by conditions so difficult or inconvenient as to amount to a denial. Accordingly held that portion of Section 5919 of the Revised Statutes which provides that at election for school directors "no person other than those whose names appear upon the ballot"—prepared by the secretary—"shall be voted for," is unconstitutional. *Littlejohn vs. People*, 52 Colo., 217.

10. In view of Section 2, Article XIV, and Section 1 of Article VII of the Constitution, whether the same rule as to residence should be adopted in elections for the location of a county seat, as in one for the removal of a county seat is a question for the legislature. The provisions of the act of 1881, as to this matter are within the legislative power. *Town of Sugar City vs. Commissioners*, 57 Colo., 432.

**Sec. 2. Suffrage to women.**—The general assembly shall at the first session thereof, and may at any subsequent session enact laws to extend the right of suffrage to women of lawful age and otherwise qualified according to the provisions of this article. No such enactment shall be of effect until submitted to the vote of the qualified electors at a general election, nor unless the same be approved by a majority of those voting thereon.

**Sec. 3. Educational qualifications of elector.**—The general assembly may prescribe, by law, an educational qualification for electors, but no such law shall take effect prior to the year of our Lord one thousand eight hundred and ninety (1890), and no qualified elector shall be thereby disqualified.

**Sec. 4. When residence does not change.**—For the purpose of voting and eligibility of office, no person shall be deemed to have gained a residence by reason of his presence, or lost it by reason of his absence, while in the civil or military service of the state, or of the United States, nor while a student at any institution of learning, nor while kept at public expense in any poorhouse or other asylum, nor while confined in public prison.

See note No. 6 under Section 1, above, *supra*.

**Sec. 5. Privilege of voters.**—Voters shall in all cases, except treason, felony or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning therefrom.

**Sec. 6. Electors only eligible to office.**—No person except a qualified elector shall be elected or appointed to any civil or military office in the state.

1. This section does not prevent the legislature from declaring the payment of taxes a necessary qualification for membership in the Denver Board of Aldermen. *Darrow vs. People*, 8 Colo., 420.

2. The right to vote and the right to hold office must not be confused; citizenship and the requisite sex, age and residence constitute the individual a legal voter, but other qualifications are absolutely essential to the efficient performance of the duties connected with almost every office. *Darrow vs. People*, 8 Colo., 420.

3. The language of this section is simply negative in form, and only prohibits the election or appointment to office of one not a qualified elector; *Id.* *Darrow vs. People*, 8 Colo., 420.

4. This section was not intended to say that the right to vote should be the sole and exclusive test of eligibility to all civil offices, except as otherwise provided in the constitution. *Id.*, 421. *Darrow vs. People*, 8 Colo., 420.

5. Under the constitution of this state qualified electors only are eligible to the office of notary public, and a bill providing for the appointment of women to such office, held to be unconstitutional. *In re House Bill No. 166*, 9 Colo., 628.

6. Constitution of Colorado, Article VII, Section 6, provides: "No person except a qualified elector shall be elected or appointed to any civil or military office in this state." Held, that the word "office," as used therein, does not include deputy clerkships of county courts, and women may hold such deputy clerkships. *Jefferies vs. Harrington*, 11 Colo., 191.

7. Section 6, Article VII, of the Constitution, prohibits the election or appointment to civil or military offices of any person except qualified electors. *In re Thomas*, 16 Colo., 441, 442.

8. But this provision refers to those offices which involve an election or appointment by or on behalf of the general public, and the performance of duties essentially public in their nature. And attorneys at law are not *per se* "civil officers" within its meaning. In re Thomas, 16 Colo., 441, 442.

**Sec. 7. General election.**—The general election shall be held on the first Tuesday of October, in the years of our Lord eighteen hundred and seventy-six, eighteen hundred and seventy-seven, and eighteen hundred and seventy-eight, and annually thereafter on such day as may be prescribed by law.

1. This section referred to in Mannix vs. Selbach, 31 Colo., 502, 504.

2. The only special power upon the subject of elections conferred by Article XX upon the people of Denver, beside the permission to use the automatic voting register, is to fix the term, which includes the time of elections, and to designate the officers who within the municipality, as agents, perform the functions of the state and county government.

All elections are public in character, of governmental and state-wide importance, rather than of local interest, and therefore must be under the control and regulation of the constitution and general laws. Mauff vs. People, 52 Colo., 562.

**Sec. 8. Election by ballot or voting machine.**—All elections by the people shall be by ballot, and in case paper ballots are required to be used, every ballot shall be numbered in the order in which it shall be received, and the number recorded by the election officers on the list of voters opposite the name of the voter who presents the ballot. The election officers shall be sworn or affirmed not to inquire or disclose how any elector shall have voted. In all cases of contested elections in which paper ballots are required to be used, the ballots cast may be counted and compared with the list of voters, and examined under such safeguards and regulations as may be provided by law. Nothing in this section, however, shall be construed to prevent the use of any machine or mechanical contrivance for the purpose of receiving and registering the votes cast at any election, provided that secrecy in voting be preserved.

When the governing body of any county, city, city and county or town, including the city and county of Denver, and any city, city and county, or town which may be governed by the provisions of special charter, shall adopt and purchase a voting machine, or voting machines, such governing body may provide for the payment therefor by the issuance of interest-bearing bonds, certificates of indebtedness, or other obligations, which shall be a charge upon such city, city and county, or town; such bonds, certificates or other obligations may be made payable at such time or times, not exceeding ten years from date of issue, as may be determined, but shall not be issued or sold at less than par.

[Amended section as proposed by L. '05, p. 168. Adopted November 6, 1906.]

1. In Colorado the right to vote is a vested constitutional right with no condition imposed as to the one of exercising the right, except that the vote be by ballot. Kellogg vs. Hickman, 12 Colo., 260.

2. Amendments to the special charter of a city incorporated prior to the constitution, which city declines to re-incorporate under the general law passed after the adoption of that instrument, are not obnoxious to the constitutional inhibition relating to local legislation. People vs. Londoner, 13 Colo., 303.

3. The clause in the constitution commanding the legislature to provide by general law for the trial of "election contests" is purely prospective in its operation; it did not repeal the provision of a special charter relating to contests for the office of mayor, existing prior to the adoption of that instrument. People vs. Londoner, 13 Colo., 303.

4. When the constitution commands the legislature to provide a method and forum for the trial of "election contests" the statute passed in obedience to such command is exclusive as to such contests, though no exclusive words be employed. People vs. Londoner, 13 Colo., 303.

5. The constitutional provision extending the right at the trial of "election contests" to open ballot-boxes and examine the ballots found therein does not forbid the exercise of this privilege in *quo warranto* proceedings. People vs. Londoner, 13 Colo., 303, 304.

6. This section referred to in Rhode vs. Stinmetz, 25 Colo., 308, 332.

**Sec. 9. No privilege to witness in election trial.**—In trials of contested elections, and for offenses arising under the election law, no per-

son shall be permitted to withhold his testimony on the ground that it may criminate himself, or subject him to public infamy; but such testimony shall not be used against him in any judicial proceeding, except for perjury in giving such testimony.

1. This section referred to in *People vs. Turpin*, 49 Colo., 234, 243.

**Sec. 10. Disfranchisement during imprisonment.**—No person while confined in any public prison shall be entitled to vote; but every such person who was a qualified elector prior to such imprisonment, and who is released therefrom by virtue of a pardon, or by virtue of having served out his full term of imprisonment, shall, without further action, be invested with all the rights of citizenship, except as otherwise provided in this constitution.

1. This section referred to in *Trackman vs. People*, 22 Colo., 83.
2. In a proceeding to disbar an attorney on the ground that he had been convicted of crime the fact that he had paid his fine was no defense to the action. The right to practice law is not a right of citizenship, and even though a party convicted of crime be restored to his rights of citizenship by paying the penalty, he is not thereby restored to the right to practice law. *People vs. Webber*, 26 Colo., 229.

**Sec. 11. Purity of elections.**—The general assembly shall pass laws to secure the purity of elections, and guard against abuses of the elective franchise.

1. This section referred to in *People vs. District Court*, 18 Colo., 26, 37.
2. Under this section, the legislature may delegate to the State Central Committee the exclusive power to decide controversies concerning the regularity of political organizations. *People ex rel. Lowry vs. District Court*, 32 Colo., 15, 21.
3. This section referred to in *William vs. People*, 38 Colo., 497, 505.
4. Registration laws enacted in compliance with Section 11, Article VII, Colorado Constitution, requiring the legislature to pass laws to secure the purity of elections, should be construed to effectuate the intent and purpose of such constitutional requirement. *People vs. Earl*, 42 Colo., 238.
5. Section 11, Article VII, Colorado Constitution, commands the legislature "to pass laws to secure the purity of elections, and guard against abuses of the elective franchise." Held, that laws enacted in response to the above mandate do not relate to subjects pertaining to local self-government or municipal affairs, and such laws are not within the contemplation of the constitution, Section 13, Article XIV, requiring the general assembly to provide, by general laws, for the organization and classification of cities. *People vs. Earl*, 42 Colo., 238, 240.
6. The constitution (Section 11, Article VII) requires the general assembly to pass laws to secure the purity of elections. It imposes this particular duty upon the general assembly, and not upon any municipality; and this duty the state cannot perform if exclusive power to regulate and control municipal elections is, by Article XX, vested in the people of the municipality of Denver. *Mauff vs. People*, 52 Colo., 562.
7. This section referred to in *Fish vs. Kugel*, 63 Colo., 101, 103.
8. The county court has no jurisdiction to try a franchise election contest. *Booth vs. County Court*, 18 Colo., 561, 563; *Williams vs. People*, 38 Colo., 497, 505.

**Sec. 12. Election contests—By whom tried.**—The general assembly shall, by general law, designate the courts and judges by whom the several classes of election contests, not herein provided for, shall be tried, and regulate the manner of trial, and all matters incident thereto, but no such law shall apply to any contest arising out of an election held before its passage.

1. The City of Denver was incorporated by a special charter prior to the adoption of the state constitution; its people have not elected to abandon such charter and incorporate under the general law; the charter therefore remains in force; changes in or amendments of the charter are obnoxious to the constitutional inhibition against local or special legislation. *Darrow vs. People*, 8 Colo., 426.
2. Special proceedings for contesting the election of municipal officers are favored by both the constitution and the statute. It is not to be presumed that the legislature would knowingly withhold obedience to the constitution. *County Court vs. Schwarz*, 13 Colo., 291.

3. See notes 2, 3, 4, 5 under Section 8, *supra*.
4. This section referred to in *Heinssen vs. State*, 14 Colo., 228, 250.
5. This section referred to in *Williams vs. People*, 38 Colo., 497, 505.
7. Section 12 of Article VII of the Constitution relates to contests between candidates of public office, and is not a limitation upon the equity powers granted to the district court by Section 11 of Article VI, nor upon the power of the legislature to make statutory provision of the contest of other elections than those specifically mentioned in the constitution. *Pagosa Springs vs. People*, 23 C. A., 479.

## ARTICLE IX.—EDUCATION.

**Sec. 12. Regents of university—Election.**—There shall be elected by the qualified electors of the state, at the first general election under this constitution, six regents of the university, who shall immediately after their election be so classified by lot, that two shall hold their office for the term of two years, two for four years and two for six years; and every two years after the first election there shall be elected two regents of the university, whose terms of office shall be six years. The regents thus elected, and their successors, shall constitute a body corporate to be known by the name and style of "The Regents of the University of Colorado."

1. This section referred to in considering the question as to whether the State University could maintain a medical department in Denver or not. *People vs. Regents*, 24 Colo., 175, 176.
2. This section referred to in *Inheritance Tax Macky Estate*, 46 Colo., 79, 95.

**Sec. 15. School districts—Board of education.**—The general assembly shall, by law, provide for organization of school districts of convenient size, in each of which shall be established a board of education, to consist of three or more directors to be elected by the qualified electors of the district. Said directors shall have control of instruction in the public schools of their respective districts.

1. This section referred to in *re Kindergarten Schools*, 18 Colo., 234, 235.
2. The election of directors to a high school district under chapter C, Laws of 1900, is valid. *Kyle vs. Abernathy*, 46 Colo., 214.
3. When a statute is in substantial conformity with the law of the territory in force at the time of the admission of the state, and with the legislation of the state ever since, and to declare it invalid would leave the high school districts without funds or control, greater weight than in ordinary cases will be accorded to the legislative interpretation provision of the constitution. *Kyle vs. Abernathy*, 46 Colo., 214.
4. A statute authorizing the levy upon all the properties within the county of a tax for the support of a high school organized in the school district, including the county seat (Laws 1909, c. 170, Sec. 16), is opposed both to the letter and spirit of Section 15 of Article IX of the Constitution. *Belier vs. Wilson*, 59 Colo., 96.
5. Laws authorizing a tax are to be strictly construed. The exaction of money from those who have no voice in determining how it shall be expended is not to be tolerated. *Belier vs. Wilson*, 59 Colo., 96.
6. Section 15 of Article IX of the Constitution vests in the directors of every school district control of the instruction of the youth of that district in the public schools. *School Dist. vs. High School Dist.*, 60 Colo., 292.
7. The provisions of subdivision 15 of Section 5925 of the Revised Statutes, as amended by c. 202 of the Acts of 1909, for the admission of a child of one district to the high school of another, at the cost of the first, is at war with this provision of the Constitution. *School Dist. vs. High School Dist.*, 60 Colo., 292.

## ARTICLE XII—OFFICERS.

**Section 1. When office expires—Suspensions.**—Every person holding any civil office under the state or any municipality therein, shall, unless removed according to law, exercise the duties of such office until his successor is duly qualified; but this shall not apply to members of the general assembly, nor to members of any board or assembly, two or more of whom are elected at the same time. The general assembly may, by law, provide for suspending any officer in his functions pending impeachment or prosecution for misconduct in office.

1. A county judge is by this Article authorized to hold and exercise the duties of his office until his successor is qualified. *People vs. Boughton*, 5 Colo., 490.

2. Under the constitution the official acts of a county commissioner whose term of office has expired, but whose successor has not been qualified are valid. *People ex rel. Williams vs. Reid*, 11 Colo., 138.

3. Where a candidate for mayor is by the proper authority declared elected, files his oath of office and enters upon the discharge of his official duties without objection from the outgoing mayor, and is subsequently ousted in a *quo warranto* proceeding to which his predecessor is not a party, it is not material error for the court pronouncing the judgment of ouster to direct that the office be turned over to the president of the board of supervisors, who is named by statute as the successor in case of a vacancy; although the constitution provides that the incumbents of municipal offices, unless removed according to law, shall exercise the duties connected therewith until their successors are "duly qualified." *Londoner vs. People ex rel. Barton*, 15 Colo., 557.

4. Instance of state treasurer holding over under this section until his successor qualified at the close of day when the term properly commenced. *Carlile vs. Henderson*, 17 Colo., 523, 533.

5. The words "according to law" in this section mean that such officers shall be removed as provided by the constitution or statute law. The phrase does not warrant the deduction that before the provision can be operative the legislature must prescribe the procedure leading up to a judgment or removal. *Trimble vs. People* 19, Colo., 187, 194.

6. Under the constitution and statutes a city attorney holds his office until his successor is duly qualified. *People vs. Herring*, 30 Colo., 445.

7. Where a city had five hold-over aldermen, and under the act (Session Laws 1901, page 384) three of such hold-over aldermen proceeded to elect the city officers whose terms expired April, 1902, and elected relator as city attorney, and the mayor and the other two hold-over aldermen also proceeded to fill vacancies in offices and re-elected respondent who had filled the office of city attorney for the past two years, relator's election not being a majority of all the members of the city council was invalid, and conceding that respondent's re-election was invalid for the same reason, as no successor had been chosen respondent was entitled to hold the office under his former election. *People vs. Herring*, 30 Colo., 445.

8. One appointed to fill the vacant and unexpired term of a public office holds precisely as his predecessor would have done had the vacancy not occurred. *The People ex rel. Callaway vs. De Guelle*, 47 Colo., 13.

9. Before the canvass of the vote, the person chosen to the office of lieutenant governor at the election held in November, A. D. 1912, departed this life. The person chosen to the same office at the previous biennial election was assuming to hold over, and preside in the sessions of the senate, though the senate, under Section 10 of Article V of the Constitution had elected a president *pro tem*. The senate having propounded to the court question as to the right of this person to so hold over, under the provisions of the constitution, *held*, that inasmuch as the officer so assuming to hold over was unquestionably an officer *de facto*, and his acts as such necessarily valid, the question was not one of sufficient importance or solemnity to demand the expression of an opinion by the court. In re Interrogatories of Senate, 54 Colo., 166.

10. Under Section 10 of the Civil Service Act of 1907 (Law 1907, c. 117), as amended by the initiated act of January 22, 1913, one appointed in 1911 to the office of state game and fish commissioner, and who had declined to submit to an examination held by the civil service commission in December, 1913, was not entitled to retain the office, as against one who, having passed the examination, had been appointed thereto and qualified therein. *Shinn vs. People*, 59 Colo., 509.

11. Section 1 of Article XII of the Constitution was intended to prevent the interruption of public business, from a vacancy in a public office.

The courts will not, except in clear cases, so interpret a statute as to defeat this purpose.

Where not controlled by a statute to the contrary, the courts will not recognize the right to resign an office, where a vacancy will be produced. *Clark vs. DuVall*, 61 Colo., 76.

12. Chapter 55 of the Laws of 1913 had not the effect to remove from their ex-officio capacity as public trustees, the treasurers of the counties transferred from the third to the second class, but only authorized the governor to appoint a public trustee in each of such counties. *Clark vs. DuVall*, 61 Colo., 76.

13. The county clerk elect, dying before qualification, a vacancy in the office occurs on the expiration of the term of the then incumbent, to be filled by appointment of the county commissioners. *Gibbs vs. The People*, 66 Colo., 414.

14. This section of the constitution authorizes the mayor of a municipal corporation is an officer who is entitled "unless removed according to law, to exercise the duties of his office is duly qualified." *Board of Trustees, Town of Gillette vs. People ex rel. Keith*, 13 C. A., 553, 560.

**Sec. 2. Personal attention required.**—No person shall hold any office or employment of trust or profit, under the laws of the state or any ordinance of any municipality therein, without devoting his personal attention to the duties of the same.

1. The facts in this case are held not to constitute an abandonment or forfeiture of the office of district judge under Section 2, Article XII of the Constitution, which provides that no person shall hold any office or employment of trust or profit under the laws of this state, without devoting his personal attention to its duties, although defendant on the advice of physicians had been for some time living outside of his district as much as possible. *People vs. Owers*, 29 Colo., 535.

**Sec. 3. Defaulting collector disqualified from office.**—No person who is now or who hereafter may become a collector or receiver of public money, or the deputy or assistant of such collector or receiver, and who shall have become a defaulter in his office, shall be eligible to or assume the duties of any office of trust or profit in this state, under the laws thereof, or of any municipality therein, until he shall have accounted for and paid over all public money for which he may be accountable.

**Sec. 4. Embezzlement disqualifies from office.**—No person hereafter convicted of embezzlement of public moneys, bribery, perjury, solicitation of bribery, or subornation of perjury, shall be eligible to the general assembly, or capable of holding any office of trust or profit in this state.

**Sec. 5. Investigation of state and county treasurers.**—The district court of each county shall, at each term thereof, specially give in charge to the grand jury, if there be one, the laws regulating the accountability of the county treasurer, and shall appoint a committee of such grand jury, or of other reputable persons not exceeding five, to investigate the official accounts and affairs of the treasurer of such county, and report to the court the condition thereof. The judge of the district court may appoint a like committee in vacation at any time, but not oftener than once in every three months. The district court of the county wherein the seat of government may be shall have the like power to appoint committees to investigate the official accounts and affairs of the state treasurer and the auditor of state.

**Sec. 6. Bribery of officers defined.**—Any civil officer or member of the general assembly who shall solicit, demand or receive, or consent to receive, directly or indirectly, for himself or for another, from any company, corporation or person, any money, office, appointment, employment, testimonial, reward, thing of value or enjoyment or of personal advantage or promise thereof, for his vote, official influence or action, or for withholding the same, or with an understanding that his official influence or action shall be in any way influenced thereby, or who shall solicit or demand any such money or advantage, matter or thing aforesaid for another, as the consideration of his vote, official influence or action, or for withholding the same, or shall give or withhold his vote, official influence or action, in consideration of the payment or promise of such money, advantage, matter or thing to another, shall be held guilty of bribery, or solicitation of bribery, as the case may be, within the meaning of this constitution, and shall incur the disabilities provided thereby for such offense, and such additional punishment as is or shall be prescribed by law.

1. The supreme court has no jurisdiction to entertain any information in the nature of quo warranto, brought pursuant to this section, and charging a district judge of the state with having committed since his induction into office some of the offenses mentioned in this section. *People vs. Goddard*, 8 Colo., 462, 463.

**Sec. 7. Oath of members of general assembly.**—Every member of the general assembly shall before he enters upon his official duties take an oath or affirmation to support the constitution of the United States and the state of Colorado, and to faithfully perform the duties of his office according to the best of his ability. This oath or affirmation shall be administered in the hall of the house to which the member shall have been elected.

**Sec. 8. Oath of civil officers.**—Every civil officer, except members of the general assembly and such inferior officers as may be by law ex-

empted, shall, before he enters upon the duties of his office, take and subscribe an oath or affirmation to support the constitution of the United States and of the state of Colorado, and to faithfully perform the duties of the office upon which he shall be about to enter.

1. A district court of the state is bound by the mandate of the Federal Constitution (Article VI, Par. 2) to apply that instrument upon all proper occasions and hold it to be the supreme law of the land, and to determine whether or not state legislative acts violate it, notwithstanding Constitution Article VI, Section 1 (See Laws, 1913, p. 678), providing that no court except the supreme court shall have any power to declare any law of the state in violation of the constitution of the state or of the United States, in view of Constitution Article XII, Section 8. *People vs. Western Union Telegraph Co.*, 198 Pac., 146.

2. The limit of a court's jurisdiction under a written constitution cannot be determined until the court first ascertains what is and what is not that constitution, and it was error for district court to determine that it could not act at all on a constitutional question, in that the state and federal constitutions were in direct conflict as to the power and duty of the court in the matter, in that his oath of office required him to uphold both constitutions. *People vs. Max*, 198 Pac., 160.

**Sec. 9. Oaths—Where filed.**—Officers of the executive department and judges of the supreme and district courts, and district attorneys, shall file their oaths of office with the secretary of state; every other officer shall file his oath of office with the county clerk of the county wherein he shall have been elected.

**Sec. 10. Refusal to qualify—Vacancy.**—If any person elected or appointed to any office shall refuse or neglect to qualify therein within the time prescribed by law, such office shall be deemed vacant.

1. The provisions of Section 9 of Article XIV of the Constitution are limited by Sections 10 and 11 of Article XII. One elected to a public office has a contingent or inchoate right which becomes absolute upon qualification. No one else can enter into the office during the term for which another is elected, until the officer elected is ousted, or his right terminated, which can never occur until the day appointed by law for the commencement of his term. If at that date he has failed to qualify, the office is vacant. Therefore, where the sheriff incumbent was re-elected, but failed to qualify for the second term, and died before his first term expired, one appointed by the board of county commissioners to the vacancy, held only to the second Tuesday for the succeeding January, the day appointed by law for the commencement of the second term of his predecessor, even though by express terms, his appointment was "until the next general election," that upon the second Tuesday of the succeeding January there was a vacancy, and one then appointed by the county commissioners to fill it was entitled to the office until the next general election. *People vs. De Guelle*, 47 Colo., 13.

2. See note 9 under Section 1, *supra*.

3. See note 13 under Section 1, *supra*.

**Sec. 11. Vacancy—Term of officer elected to fill.**—The term of office of any officer elected to fill a vacancy shall terminate at the expiration of the term during which the vacancy occurred.

1. See note 1 under Section 10, *supra*.

**Sec. 12. Duel—Disqualifies for office.**—No person who shall hereafter fight a duel, or assist in the same as a second, or send, accept or knowingly carry a challenge therefor, or agree to go out of the state to fight a duel, shall hold any office in the state.

## ARTICLE XIII—IMPEACHMENTS.

**Section 1. House impeach—Senate try—Conviction—When chief justice preside.**—The house of representatives shall have the sole power of impeachment. The concurrence of a majority of all the members shall be necessary to an impeachment. All impeachments shall be tried by the senate, and when sitting for that purpose, the senators shall be upon oath or affirmation to do justice according to law and evidence. When the governor or lieutenant governor is on trial, the chief justice of the supreme court shall preside. No person shall be convicted without a concurrence of two-thirds of the senators elected.

**Sec. 2. Who liable to impeachment—Judgment—No bar to prosecution.**—The governor and other state and judicial officers, except county judges and justices of the peace, shall be liable to impeachment for high crimes or misdemeanors, or malfeasance in office, but judgment in such cases shall only extend to removal from office and disqualification to hold any office of honor, trust or profit in the state. The party, whether convicted or acquitted, shall, nevertheless, be liable to prosecution, trial, judgment and punishment according to law.

The speaker of the house of representatives is not a state officer, and is not liable to removal by impeachment. In re Speakership, 15 Colo., 520.

**Sec. 3. Officers not subject to impeachment subject to removal.**—All officers not liable to impeachment shall be subject to removal for misconduct or malfeasance in office in such manner as may be provided by law.

1. The house of representatives has the power, by a vote of the majority of the whole number of members elected, to remove its speaker from office and to elect another in his stead. In re Speakership, 15 Colo., 520.

2. The governor has the power to remove a member of the fire and police board of the City of Denver from his office, for cause, of the sufficiency of which cause the judgment of the executive is conclusive, provided it be stated in writing and be other than political. Trimble vs. People, 19 Colo., 187.

3. The legislature, having power to create an office, has power to provide the manner in which it shall be filled, and like power to provide for removals. Trimble vs. People, 19 Colo., 187.

4. The existence of the cause for which the governor may remove a fire and police commissioner may be ascertained in any manner satisfactory to himself. The institution of an investigation in the nature of a judicial or quasi-judicial proceeding is not required by the statute relating to that office. Trimble vs. People, 19 Colo., 187.

5. This section referred to in an action by the mayor against the board of trustees for attempting to remove him from office. Board of Trustees Town of Gillette vs. People ex rel Keith, 13 C. A., 553, 560.

6. The phrase "as may be provided by law," in Section 3 of Article XIII of the Constitution, when applied to an elective officer whose term is definitely fixed, refers only to a statute or a provision of the constitution. Burkholder vs. People, 59 Colo., 99.

7. Where a statute provides that the conviction of a public officer of specified offenses shall "work a forfeiture of his office," nothing but a conviction, in the absence of other statutory provisions, effects such removal. Burkholder vs. People, 59 Colo., 99.

8. An officer of an irrigation district is not to be excluded from his office for the offenses denounced in Revised Statutes, Section 3466, until conviction thereof. The commission of the offense, without conviction, has not this effect. Burkholder vs. People, 59 Colo., 100.

## ARTICLE XIV—COUNTIES.

**Sec. 2. Removal of county seats.**—The general assembly shall have no power to remove the county seat of any county, but the removal of county seats shall be provided for by general law, and no county seat shall be removed unless a majority of the qualified electors of the county, voting upon the proposition at a general election, vote therefor; and no such proposition shall be submitted oftener than once in four years, and no person shall vote on such proposition who shall not have resided in the county six months and in the election precinct ninety days next preceding such election.

1. The removal of county seats is a subject over which the law-making power has plenary jurisdiction and control. In the absence of constitutional restrictions, a removal could be authorized upon any vote, great or small, which that body deemed advisable. Alexander vs. People, 7 Colo., 155.

2. When the lowest limit only is fixed in the fundamental law, the legislature may act without restraint in the ascending scale, and, having fixed in the statute the vote which shall be required, it becomes the paramount law, and nothing is left for implication. Alexander vs. People, 7 Colo., 155.

3. That part of the act of 1891 (Session Laws 1891, page 117), providing for elections for removal of county seats, which limits the right to vote on the question to resident taxpayers of the county is in contravention of Section 2, Article XIV, of the Constitution which prescribes the qualification of electors to vote upon the question of removal of county seats and only

limits the right to qualified electors who have resided in the county six months and in the election precinct ninety days next preceding such election.

4. In view of Section 2, Article XIV, and Section 1 of Article VII of the Constitution, whether the same rule as to residence should be adopted in elections for the location of a county seat, as in one for the removal of a county seat is a question for the legislature. The provisions of the act of 1881, as to this matter are within the legislative power. *Sugar City vs. Commissioners*, 57 Colo., 432.

**Sec. 3. County—Striking off—Vote.**—No part of the territory of any county shall be stricken off and added to an adjoining county, without first submitting the question to the qualified voters of the county from which the territory is proposed to be stricken off; nor unless a majority of all the qualified voters of said county voting on the question shall vote therefor.

1. Section 3, Article XIV, of the Constitution, which provides that "no part of the territory of any county shall be stricken off, and added to an adjoining county without first submitting the question to the qualified voters of the county from which the territory is proposed to be stricken off, nor unless a majority of all the qualified voters of said county, voting on the question, shall vote therefor," does not restrict the power of the legislature to create new counties from territory embraced in one or more existing counties. *Frost vs. Pfeiffer*, 26 Colo., 339.

**Sec. 6. County commissioners—Election—Term.**—In each county having a population of less than seventy thousand there shall be elected, for a term of four years each, three county commissioners who shall hold sessions for the transaction of county business as provided by law; any two of whom shall constitute a quorum for the transaction of business. Two of said commissioners shall be elected at the general election in the year nineteen hundred and four, and at the general election every four years thereafter; and the other one of said commissioners shall be elected at the general election in the year nineteen hundred and six, and at the general election every four years thereafter; *Provided*, That when the population of any county shall equal or exceed seventy thousand, the board of county commissioners may consist of five members, any three of whom shall constitute a quorum for the transaction of business. Three of said commissioners in said county shall be elected at the general election in the year nineteen hundred and four, and at the general election every four years thereafter and the other two of said commissioners in such county shall be elected at the general election in the year nineteen hundred and six and every four years thereafter; and all of such commissioners shall be elected for the term of four years.

The term of office of the county commissioners in each county that expires in January, 1904, is hereby extended to the second Tuesday in January, A. D. 1905, and the term of office of the county commissioners that expires in January, 1906, is hereby extended to the second Tuesday in January, A. D. 1907; and in counties having a population of more than seventy thousand, the term of office of the commissioners that expire in 1904 shall be extended to the second Tuesday in January, 1905, and the term of office of the county commissioners that expire in 1906 is hereby extended to the second Tuesday in January, 1907. This section shall govern except as hereinafter otherwise expressly directed or permitted by constitutional enactment.

[Amended section as proposed by L. '01, p. 112. Adopted November 4, 1902.]

1. County authorities exercise no power that is not conferred by the constitution or the legislature. Any question by them not thus sanctioned is ultra vires and void. *People vs. May*, 9 Colo., 408.

2. The amendment of Section 6, Article XIV, of the Constitution, by which the number of commissioners in counties having less than seventy thousand population was limited to three, does not contemplate the removal from office of two commissioners in counties having five, but will result in the gradual reduction of the number to three as their terms of office expire and no provision is made for the election of their successors, as the amendment provides for the election of two commissioners in 1904 and every four years thereafter, and one in 1906 and every four years thereafter. *People vs. Long*, 82 Colo., 486.

3. The amendment of Section 6, Article XIV of the Constitution, adopted at the general election in 1902, by which the number of commissioners in counties of less than seventy thousand population was limited to three, does not operate to prevent commissioners elected at that election in counties of less than seventy thousand, having five commissioners, from qualifying and serving out their terms. Such commissioners are entitled to serve out their term which by the amendment is extended so as to expire January, 1907, instead of January, 1906. *People vs. Long*, 32 Colo., 486.

4. This section does not contemplate that two county commissioners shall be removed from office, but that they shall serve out their terms and the gradual reduction of the number through the fact that no successors are elected. *Long vs. People*, 33 Colo., 159, 160.

5. Held, that, although the county of Arapahoe had five county commissioners, and the City and County of Denver is the only other county in the state entitled to such number, still the latter is not the successor of the former, but, so far as the exercise of county functions is concerned, is a new county; and by the use of the word "may" in Section 6, supra, it is optional whether the City and County of Denver shall have three or five commissioners; and the members of the board of county commissioners of Arapahoe County residing within the City and County of Denver are not entitled to act as commissioners of the latter county, but their terms of office terminated in accordance with the provisions of Section 3, Article XX supra., p. 38. *Uzzell vs. Anderson*, 38 Colo., 33.

6. The question as to whether or not the board of county commissioners is composed of three or five members cannot be determined in an injunction suit to restrain two members from acting. *Lawson vs. Hayes*, 39 Colo., 250, 253.

7. All the officials designated as county officers are enumerated in Section 6 of Article XIV. The judge of the county court is not of the number and considering the provisions of Article VI it is manifest that the judge of the county court is no more an officer of the county in which he exercises judicial functions than is the judge of the district court an officer of the district, in the courts where he presides. Each is an officer of the state. *Dixon vs. People*, 53 Colo., 528.

**Sec. 8. County officers—Election—Term—Salary.**—There shall be elected in each county, at the same time at which members of the general assembly are elected, commencing in the year nineteen hundred and four, one county clerk, who shall be ex officio recorder of deeds and clerk of the board of county commissioners; one sheriff; one coroner; one treasurer, who shall be collector of taxes; one county superintendent of schools; one county surveyor; one county assessor; and one county attorney, who may be elected, or appointed, as shall be provided by law; and such officers shall be paid such salary or compensation, either from the fees, perquisites and emoluments of their respective offices, or from the general county fund, as may be provided by law. The term of office of all such officials that expire in January, 1904, is hereby extended to the second Tuesday in January, A. D. 1905.

This section shall govern, except as hereafter otherwise expressly directed, or permitted by constitutional enactment.

[Amended section as proposed by L. '01, p. 112. Adopted November 4, 1902.]

1. An assessor is to be elected in each county each alternate year. *People ex rel. Crawford vs. Lathrop*, 3 Colo., 643.

2. The duty of assessing, that is, valuing property for taxation, is vested in assessors. They are constitutional officers. In re S. B. Nos. 69, 106 and H. B. No. 270, as to taxing Mines, 9 Colo., 636.

3. The county clerk is a county officer, expressly so designated in the constitution, and as such he is embraced in that portion of the title to Section 1465 which advises us that the act is one "concerning county officers." *Stockman vs. Brooks*, 17 Colo., 248, 250; 29 P., 746.

4. Courts should not compel the county court to allow the use of the records for the purpose of making copies and abstracts therefrom while the board of county commissioners are in session, as by the constitution the clerk must in person or by deputy attend such sessions of the board when required. *Upton vs. Catlin*, 17 Colo., 546, 550; 31 P., 172.

5. The constitution provides that there shall be elected, biennially, in each county, one county assessor, and in the absence of a constitutional or statutory provision as to the duties of such assessor, his duties shall be such as are usually incumbent upon such an officer. *People vs. Ames*, 24 Colo., 422, 427; 51 p. 426. (Construing original section.)

6. The act of the legislature, Session Laws, 1891, page 290, providing for the assessment of railroad property and other property by the state board of equalization is not in conflict with or inhibited by Section 8, Article XIV of the Constitution providing for the election of county assessors. *Ames vs. People*, 26 Colo., 83.

7. The election to be held in November, 1903, for the election of a judge of the supreme court is a general election within the meaning of Section 9, Article XIV, of the Constitution, providing that persons appointed by the board of county commissioners to fill vacancies in county offices shall hold office until the next general election. The amendment to Section 8, Article XIV, of the Constitution changing the time for election of county officers and extending the terms of such officials now in office for one year did not change the manner of filling vacancies in such offices. *Mannix vs. Selbach*, 31 Colo., 502.

8. Under Section 8, Article XIV, Colorado Constitution, providing that there shall be elected in each county, at the same time at which members of the general assembly are elected, commencing in the year nineteen hundred and four, "one county clerk \* \* \* one county attorney, who may be elected or appointed, as shall be provided by law \* \* \*". The term of office of all such officials that expire in January, 1904, is hereby extended to the second Tuesday in "January, A. D. 1905," the office of county attorney was probably created; but in the absence of the legislature determining whether it shall be elective or appointive, there is no means provided for filling the office, and, therefore, it is inoperative and the former statute authorizing county commissioners to employ counsel has not been superseded, nor does the above constitutional provision made counsel, so employed, county officials, nor extend their terms to January, 1905. *People vs. Lindsley*, 37 Colo., 476.

9. The act commonly known as the "Torrens Land Law," Session Laws 1903, c. 139, Section 9, provides that county clerks and recorders of the several counties shall be registrars of title in their respective counties. Section 8, Article XIV, Colorado Constitution, provides that there shall be elected in each county a county clerk, who shall be ex-officio recorder of deeds, but does not define his duties. Held, that Section 9 of the act does not create a new county office, which is neither filled by appointment, as required by Article IV, Section 6, supra, nor by election or appointment, as provided by Article XIV, Section 12, since only additional duties are imposed upon said clerk. *People vs. Crissman*, 41 Colo., 451.

10. The general assembly may not destroy the office of county assessor, but may prescribe that the work of the assessor may be corrected, supplemented, or revised, e. g., by a central body, with power to bring the taxable property in each county to its full cash value, for the purpose of taxation.

They may not relieve either the state or county board of equalization of the duties which the constitution imposes upon these bodies respectively, or delegate those duties to others. *Colo. Tax Com. vs. Pitcher*, 56 Colo., 343.

11. The constitution creates many offices, the duties of which it does not prescribe, but places no limitation upon the creation of others. Among the former is that of county assessor. Section 8, Article XIV. Equalization vs. Investment Co., 56 Colo., 512.

12. As the office of county assessor existed at and prior to the adoption of the constitution, and the functions and the duties thereof were defined by territorial laws, and Section 1 of the constitutional schedule continued in force such laws, so far as not inconsistent with the constitution, until they should expire by their own limitation or were altered or repealed by the general assembly, the duties pertaining to such office may be changed and modified as held in *People ex rel. v. Pitcher*, ante. Equalization vs. Investment Co., 56 Colo., 512.

13. There can be no conflict between Section 15 of Article XIV of the Constitution, and Section 8 of the same article as amended.

The amendment does not impair the effect of the provision of Section 15 that "all fees, perquisites and emoluments," allowed to a county officer, "above the amount," of the salaries allowed by law, where fees are prescribed, shall be paid into the county treasury. (503, 504) *El Paso County vs. Shelden*, 59 Colo., 499.

14. Any attempt to add to the prescribed salary of a county officer, by allowing him to retain fees in an unknown and unascertainable amount, as by the act of April 22, 1909 (Laws of 1909, c. 167, sec. 2338), is obnoxious to the constitutional prohibition and without effect. (503, 504). *El Paso County vs. Shelden*, 59 Colo., 499.

**Sec. 9. Vacancies—How filled.**—In case of a vacancy occurring in the office of county commissioner, the governor shall fill the same by appointment; and in case of a vacancy in any other county office, or in any precinct office, the board of county commissioners shall fill the same by appointment; and the person appointed shall hold the office until the next general election, or until the vacancy be filled by election according to law.

1. The constitution does not require that all judicial officers shall be elected. They may be elected or appointed as the legislature provides, unless otherwise expressly provided in the constitution. *People vs. Rucker*, 5 Colo., 461.

2. The vacancy made by the law creating a new date for the commencement of the office of county treasurer is to be filled under this section by the board of county commissioners. In re H. B. No. 38, as to County Treasurers, 9 Colo., 631.

3. A county judge is a county officer and a vacancy in the office is filled by the board of county commissioners. In re compensation of county judges, 18 Colo., 272, 273.

4. The fact that an act creating a new county contains provisions for appointment of officers in an unauthorized manner does not invalidate the act, since Section 9, Article XIV of the Constitution contains self executing provisions under which the officers can be appointed. *Frost vs. Pfeiffer*, 26 Colo., 338.

5. See note 7 under preceding section.

6. The provisions of Section 9 of Article XIV of the Constitution are limited by Sections 10 and 11 of Article XII. One elected to a public office has a contingent or inchoate right which becomes absolute upon qualification. No one else can enter into this office during the term for which another is elected, until the officer elected is ousted, or his right terminated, which can never occur until the day appointed by law for the commencement of his term. If at that date he has failed to qualify, the office is vacant. Therefore, where the sheriff incumbent was re-elected, but failed to qualify for the second term, and died before his first term expired, one appointed by the board of county commissioners to the vacancy, held only to the second Tuesday of the succeeding January, the day appointed by law for the commencement of the second term of his predecessor, even though by express terms his appointment was "until the next general election"; that upon the second Tuesday of the succeeding January there was a vacancy, and one then appointed by the county commissioners to fill it was entitled to the office until the next general election. *People vs. De Guelle*, 47 Colo., 13.

7. The county clerk elect, dying before qualification, a vacancy in the office occurs on the expiration of the term of the then incumbent, to be filled by appointment of the county commissioners. *Gibbs vs. People*, 66 Colo., 414.

**Sec. 10. Elector only eligible to office.**—No person shall be eligible to any county office unless he shall be a qualified elector; nor unless he shall have resided in the county one year preceding his election.

**Sec. 11. Justices of the peace—Constables.**—There shall be elected at the same time at which members of the general assembly are elected, beginning with the year nineteen hundred and four, two justices of the peace and two constables in each precinct in each county, who shall hold their office for a term of two years; *Provided*, That in precincts containing fifty thousand (50,000) or more inhabitants, the number of justices and constables may be increased as provided by law. The term of offices of all justices of the peace that expires in January, 1904, is hereby extended to the second Tuesday in January, 1905. This section shall govern, except as heretofore otherwise expressly directed, or permitted by constitutional enactment.

[Amended section as proposed by L. '01, p. 114, Adopted November 4, 1902.]

1. Officers—justices of the peace.

Justices of the peace are constitutional officers.

The act of 1891 authorizing an additional justice of the peace in precincts having a population of over twenty thousand was a valid exercise of legislative power. *Pueblo Co. vs. Smith*, 22 Colo., 534.

2. The only limitation upon the power of the legislature in respect of justices' precincts is that relating to the increase of the number of justices in a precinct. *Morris vs. People*, 8 Colo. App., 375.

3. A justice of the peace is a constitutional officer whose term of office can neither be abridged nor lengthened unless he subjects himself to the other penalties prescribed by law. *Chapman vs. People*, 9 Colo. App., 269.

4. See also *Thrush vs. People*, 53 Colo., 544.

## ARTICLE XIX—AMENDMENTS.

**Section 1. Constitutional convention—How called.**—The general assembly may at any time by a vote of two-thirds of the members elected to each house, recommend to the electors of the state, to vote at the next general election for or against a convention to revise, alter and amend this constitution; and if a majority of those voting on the question shall declare in favor of such convention, the general assembly shall, at its next session, provide for the calling thereof. The number of members of the convention shall be twice that of the senate and they shall be elected in the same manner, at the same place, and in the same districts. The general assembly shall, in the act calling the convention, designate the day, hour and place of its meeting; fix the pay of its members and officers,

and provide for the payment of the same, together with the necessary expenses of the convention. Before proceeding, the members shall take an oath to support the constitution of the United States, and of the state of Colorado, and to faithfully discharge their duties as members of the convention. The qualifications of members shall be the same as of members of the senate; and vacancies occurring shall be filled in the manner provided for filling vacancies in the general assembly. Said convention shall meet within three months after such election and prepare such revisions, alterations or amendments to the constitution as may be deemed necessary; which shall be submitted to the electors for their ratification or rejection at an election appointed by the convention for that purpose, not less than two nor more than six months after adjournment thereof; and unless so submitted and approved by a majority of the electors voting at the election, no such revision, alteration or amendment shall take effect.

1. Where an amendment to the constitution is attacked after its ratification by the people, every reasonable presumption, both of law and fact, is to be indulged in favor of its validity. *People vs. Sours*, 31 Colo., 369.

2. A constitutional amendment consolidating a city and county government into one and providing that the people of the city and county shall adopt a charter which shall provide for the election or appointment of all officers of the city and county and shall designate the officers who shall perform the acts and duties required by the constitution and general laws to be done by county officers, and provides that the citizens of the city and county shall have exclusive power to adopt or to amend their charter or to adopt any measure as provided in the amendment, does not exempt a portion of the state from the provisions of the constitution and general laws of the state, and is not obnoxious to the provision of the enabling act which requires the constitution to be republican in form and not repugnant to the Constitution of the United States. *People vs. Sours*, 31 Colo., 369, 370.

3. Under the provisions of the constitution authorizing amendments the article providing for such amendments may be amended. *People vs. Sours*, 31 Colo., 369, 370.

4. Unless the court is satisfied beyond a reasonable doubt that the constitution has been violated in the submission of a constitutional amendment, the amendment must be upheld. *People vs. Sours*, 31 Colo., 369, 370.

5. An amendment to the constitution may be proposed by the legislature and adopted, by the addition to the constitution of a new and separate article. *People vs. Sours*, 31 Colo., 369, 370.

6. It is a universal rule that where an amendment to the constitution which has received the popular approval is assailed, it must appear beyond a reasonable doubt, both as to law and fact, that the constitution has been violated before the amendment will be overthrown. *People vs. Provost*, 55 Colo., 199.

7. Where the General Assembly recommends to the people a convention to revise the constitution, the governor is charged with no duty or authority, with respect to such recommendation. His disapproval is without effect. *People vs. Ramer*, 62 Colo., 128.

8. Section 39 of Article V and Section 1 of Article XIX are not in *pari materia*. The first relates to ordinary legislation, and the last to the calling of a convention for the amendment of the constitution. They are of equal dignity, and neither can be invoked to interfere with the operation of the other. *People vs. Ramer*, 62 Colo., 128.

**Sec. 2. Amendments to constitution—How adopted.**—Any amendment or amendments to this constitution may be proposed in either house of the general assembly, and if the same shall be voted for by two-thirds of all the members elected to each house, such proposed amendment or amendments, together with the ayes and noes of each house thereon, shall be entered in full on their respective journals; the proposed amendment or amendments shall be published with the laws of that session of the general assembly, and the secretary of state shall also cause the said amendment or amendments to be published in full in not more than one newspaper of general circulation in each county, for four successive weeks previous to the next general election for members of the general assembly; and at said election the said amendment or amendments shall be submitted to the qualified electors of the state for their approval or rejection, and such as are approved by a majority of those voting thereon shall become part of this constitution.

*Provided*, That if more than one amendment be submitted at any general election, each of said amendments shall be voted upon separately and votes thereon cast shall be separately counted the same as though but

one amendment was submitted. But the general assembly shall have no power to propose amendments to more than six articles of this constitution at the same session.

[Amended section as proposed by L. '99, p. 155. Adopted November 6, 1900.]

\*[See also Article XXIII on page 24 hereof.]

1. The power of the general assembly to propose amendments to the constitution is not subject to the provisions of Article V regulating the introduction and passage of ordinary legislative enactments. Section 2 of Article XIX prescribes the method of proposing amendments to the constitution, and no other rule controls. *Nesbit vs. People*, 19 Colo., 441.

2. See notes 1 to 5 inclusive under the preceding section.

3. The supreme court has no jurisdiction to enjoin the secretary of state to publish proposed amendments to the constitution. *People ex rel. O'Reilly vs. Mills*, 30 Colo., 262.

4. The provision of Section 2, Article XIX, of the constitution that amendments to not more than six articles of the constitution shall be proposed at the same session of the legislature, applies to express amendments and not to implied or incidental amendments or modifications of other articles of the constitution than the one expressly amended. *People vs. Sours*, 31 Colo., 369, 370.

5. A constitutional amendment may embrace more than one subject. *People vs. Sours*, 31 Colo., 369, 371.

6. If a constitutional amendment embraces several subjects all of which are germane to the general subject or purpose of the amendment, the several subjects need not be separately submitted but the amendment may be submitted and voted upon as a single proposition. *People vs. Sours*, 31 Colo., 369, 371.

7. This section referred to in *Russell vs. Courier P. & P. Co.*, 43 Colo., 321.

8. Under Section 2 of Article XIX of the constitution, every proposed amendment to the constitution must be published in each county in one newspaper of general circulation, in such county. Publication in a newspaper devoted to a particular branch of industry is not a compliance with this requirement. In re House Resolution No. 10, 50 Colo., 71.

9. Under Section 2, Article XIX, of the constitution it is not required, in order to the effectual submission to the people of a proposed amendment to the constitution, that it should appear in the session laws for any certain time, or that such publication should occur previous to the election at which the amendment is to be submitted. The publication for "four successive weeks" prescribed by the constitution relates to the publication required to be made in the newspapers, and not to that in the session laws. *Pearce vs. The People*, 53 Colo., 399.

10. The proviso to Section 2 of Article XIX only requires that each proposed amendment shall be submitted separately. Several provisions constitute a single amendment as each is so connected with the general subject that one is not desirable without the other. That other articles may be incidentally affected, or amended by implication is not material. *People vs. Prevost*, 55 Colo., 199.

11. The legislation submitted to the people, under the initiative, at the election of November, 1912, relating to the publication of initiated laws, being proposed as a statute, and voted upon as such, is to be regarded as attempted legislation, and not as an amendment to the constitution, even though the effect proposed was to change the rule prescribed by Section 2 of Article XIX.

12. The facts upon which depend the question whether an amendment proposed to the constitution has received the approval of the people will be judicially noticed. *Harrison vs. People*, 57 Colo., 137.

## ARTICLE XX—CITY AND COUNTY OF DENVER.

### Home Rule for Cities and Towns.

Sec. 6. The people of each city or town in this state, having a population of two thousand inhabitants as determined by the last preceding census taken under the authority of the United States, the State of Colorado or said City or town, are hereby vested with, and they shall always have, power to make, amend, add to or replace the charter of said city or town, which shall be its organic law and extend to all its local and municipal matters.

Such charter and the ordinances made pursuant thereto in such matters shall supersede within the territorial limits and other jurisdiction of said city or town any law of the state in conflict therewith.

Proposals for charter conventions shall be submitted by the city council or board of trustees, or other body in which the legislative powers of the city or town shall then be vested, at special elections, or at

general state or municipal elections, upon petitions filed by qualified electors, all in reasonable conformity with section 5 of this article, and all proceedings thereon or thereafter shall be in reasonable conformity with sections 4 and 5 of this article.

From and after the certifying to and filing with the secretary of state of a charter framed and approved in reasonable conformity with the provisions of this article, such city or town, and the citizens thereof, shall have the powers set out in sections 1, 4 and 5 of this article, and all other powers necessary, requisite or proper for the government and administration of its local and municipal matters, including power to legislate upon, provide, regulate, conduct and control:

a. The creation and terms of municipal officers, agencies and employments; the definition, regulation and alteration of the powers, duties, qualifications and terms of tenure of all municipal officers, agents and employees;

b. The creation of police courts; the definition and regulation of the jurisdiction, powers and duties thereof, and the election or appointment of police magistrates therefor;

c. The creation of municipal courts; the definition and regulation of the jurisdiction, powers and duties thereof, and the election or appointment of the officers thereof;

d. All matters pertaining to municipal elections in such city or town, and to electoral votes therein on measures submitted under the charter or ordinances thereof, including the calling or notice and the date of such election or vote, the registration of voters, nominations, nomination and election systems, judges and clerks of election, the form of ballots, balloting, challenging, canvassing, certifying the result, securing the purity of elections, guarding against abuses of the elective franchise, and tending to make such elections or electoral votes non-partisan in character;

e. The issuance, refunding and liquidation of all kinds of municipal obligations, including bonds and other obligations of park, water and local improvement districts;

f. The consolidation and management of park or water districts in such cities or towns or within the jurisdiction thereof; but no such consolidation shall be effective until approved by the vote of a majority, in each district to be consolidated, of the qualified electors voting therein upon the question;

g. The assessment of property in such city or town for municipal taxation and the levy and collection of taxes thereon for municipal purposes and special assessments for local improvements; such assessment, levy and collection of taxes and special assessments to be made by municipal officials or by the county or state officials as may be provided by the charter;

h. The imposition, enforcement and collection of fines and penalties for the violation of any of the provisions of the charter, or of any ordinance adopted in pursuance of the charter.

"It is the intention of this article to grant and confirm to the people of all municipalities coming within its provisions the full right of self-government in both local and municipal matters and the enumeration herein of certain powers shall not be construed to deny such cities and towns, and to the people thereof, any right or power essential or proper to the full exercise of such right.

The statutes of the State of Colorado, so far as applicable, shall continue to apply to such cities and towns, except in so far as superseded by the charters of such cities and towns or by ordinance passed pursuant to such charters.

All provisions of the charters of the City and County of Denver and the Cities of Pueblo, Colorado Springs and Grand Junction, as heretofore certified to and filed with the secretary of state, and of the charter of any

other city heretofore approved by a majority of those voting thereon and certified to and filed with the secretary of state, which provisions are not in conflict with this article, and all elections and electoral votes heretofore had under and pursuant thereto, are hereby ratified, affirmed and validated as of their date.

Any act in violation of the provisions of such charter or of any ordinance thereunder shall be criminal and punishable as such when so provided by any statute now or hereafter in force.

The provisions of this section 6 shall apply to the City and County of Denver.

This article shall be in all respects self-executing.

[Amended section as proposed by Initiative Petition and adopted November 5, 1912.]

1. The measure submitted to the people under the initiative, at the election of 1912, as an amendment to Article XX of the Constitution (Laws, 1913), commonly known as the Home Rule Amendment, was a valid and effectual amendment to the fundamental law.

The provisions of Section 6 of the Article as amended, are effectual to make the regulation of municipal elections, the levy and collection of taxes for municipal purposes, and special assessments, matters of municipal concern. All the provisions of the amendment are germane to its general purpose, and it was properly submitted as a single amendment. *People vs. Prevost*, 55 Colo., 199.

2. Section 104-A of the Charter of Denver is not in conflict with Section 4 of Article XX of the Constitution, Section 6, Article XX (Laws, 1913, 699). *Perkins vs. People*, 59 Colo., 107.

## ARTICLE XXI—RECALL FROM OFFICE.

### Section

1. State officers may be recalled.
2. Form of recall petition.
3. Resignation, filling vacancy.

### Section

4. Recall after six months—Member of legislature.

Section 1. State officers may be recalled.—Every elective public officer of the State of Colorado may be recalled from office at any time by the electors entitled to vote for a successor of such incumbent through the procedure and in the manner herein provided for, which procedure shall be known as the Recall, and shall be in addition to and without excluding any other method of removal provided by law.

The procedure hereunder to effect the recall of an elective public officer shall be as follows:

A petition signed by electors entitled to vote for a successor of the incumbent sought to be recalled equal in number to twenty-five per centum of the entire vote cast at the last preceding election for all candidates for the position which the incumbent sought to be recalled occupies, demanding an election of the successor to the officer named in said petition, shall be filed in the office in which petitions for nominations to office held by the incumbent sought to be recalled are required to be filed; *Provided*, if more than one person is required by law to be elected to fill the office of which the person sought to be recalled is an incumbent, then the said petition shall be signed by electors entitled to vote for a successor to the incumbent sought to be recalled equal in number to twenty-five per centum of the entire vote cast at the last preceding general election for all candidates for the office, to which the incumbent sought to be recalled was elected as one of the officers thereof, said entire vote being divided by the number of all officers elected to such office, at the last preceding general election; and such petition shall contain a general statement, in not more than two hundred words, of the ground or grounds on which such recall is sought, which statement is intended for the information of the electors, and the electors shall be the sole and exclusive judges of the legality, reasonableness and sufficiency of such ground or grounds assigned for such recall, and said ground or grounds shall not be opened to review.

Section 1 of Article XXI of the Constitution (Laws, 1913, p. 672) applies only to elected public officers of the state. City, county and town officers may be recalled under Section 4 of the act. *Guyer vs. Stutt*, 68 Colo., 422.

**Sec. 2. Form of recall petition.**—Any recall petition may be circulated and signed in sections, provided each section shall contain a full and accurate copy of the title and text of the petition; and such recall petition shall be filed in the office in which petitions for nominations to office held by the incumbent sought to be recalled are required to be filed.

The signatures to such recall petition need not all be on one sheet of paper, but each signer must add to his signature the date of his signing said petition, and his place of residence, giving his street number, if any, should he reside in a town or city. The person circulating such sheet must make and subscribe an oath on said sheet that the signatures thereon are genuine, and a false oath, wilfully so made and subscribed by such person, shall be perjury and be punished as such. All petitions shall be deemed and held to be sufficient if they appear to be signed by the requisite number of signers, and such signers shall be deemed and held to be qualified electors, unless a protest in writing under oath shall be filed in the office in which such petition has been filed, by some qualified elector, within fifteen days after such petition is filed, setting forth specifically the grounds of such protest, whereupon the officer with whom such petition is filed shall forthwith mail a copy of such protest to the person or persons named in such petition as representing the signers thereof, together with a notice fixing a time for hearing such protest not less than five nor more than ten days after such notice is mailed. All hearings shall be before the officer with whom such protest is filed, and all testimony shall be under oath. Such hearings shall be summary and not subject to delay, and must be concluded within thirty days after such petition is filed, and the result thereof shall be forthwith certified to the person or persons representing the signers of such petition. In case the petition is not sufficient it may be withdrawn by the person or a majority of the persons representing the signers of such petition, and may, within fifteen days thereafter, be amended and refiled as an original petition. The finding as to the sufficiency of any petition may be reviewed by any state court of general jurisdiction in the county in which such petition is filed, upon application of the person or a majority of the persons representing the signers of such petition, but such review shall be had and determined forthwith. The sufficiency, or the determination of the sufficiency, of the petition referred to in this section shall not be held, or construed, to refer to the ground or grounds assigned in such petition for the recall of the incumbent sought to be recalled from office thereby.

When such petition is sufficient, the officer with whom such recall petition was filed, shall forthwith submit said petition, together with a certificate of its sufficiency to the Governor, who shall thereupon order and fix the date for holding the election not less than thirty days nor more than sixty days from the date of submission of said petition: *Provided*, if a general election is to be held within ninety days after the date of submission of said petition, the recall election shall be held as part of said general election.

**Sec. 3. Resignation—Filling vacancy.**—If such officer shall offer his resignation, it shall be accepted, and the vacancy caused by such resignation, or from any other cause, shall be filled as provided by law; but the person appointed to fill such vacancy shall hold his office only until the person elected at the recall election shall qualify. If such officer shall not resign within five days after the sufficiency of the recall petition shall have been sustained, the Governor shall make or cause to be made publication of notice for the holding of such election, and officers charged by law with duties concerning elections shall make all arrangements for such election, and the same shall be conducted, returned and the result thereof declared in all respects as in the case of general elections.

On the official ballot at such elections shall be printed in not more than 200 words, the reasons set forth in the petition for demanding his

recall, and in not more than 300 words there shall also be printed, if desired by him, the officer's justification of his course in office. If such officer shall resign at any time subsequent to the filing thereof, the recall election shall be called notwithstanding such resignation.

There shall be printed on the official ballot, as to every officer whose recall is to be voted on, the words, "Shall (name of person against whom the recall petition is filed) be recalled from the office of (title of the office)?" Following such question shall be the words "Yes" and "No," on separate lines, with a blank space at the right of each, in which the voter shall indicate, by marking a cross (X), his vote for or against such recall.

On such ballots, under each question, there shall also be printed the names of those persons who have been nominated as candidates to succeed the person sought to be recalled; but no vote cast shall be counted for any candidate for such office, unless the voter also voted for or against the recall of such person sought to be recalled from said office. The name of the person against whom the petition is filed shall not appear on the ballot as a candidate for the office.

If a majority of those voting on said question of the recall of any incumbent from office shall vote "no," said incumbent shall continue in said office; if a majority shall vote "yes," such incumbent shall thereupon be deemed removed from such office upon the qualification of his successor.

If the vote had in such recall elections shall recall the officer then the candidate who has received the highest number of votes for the office thereby vacated shall be declared elected for the remainder of the term, and a certificate of election shall be forthwith issued to him by the canvassing board. In case the person who received the highest number of votes shall fail to qualify within fifteen days after the issuance of a certificate of election, the office shall be deemed vacant, and shall be filled according to law.

Candidates for the office may be nominated by petition, as now provided by law, which petition shall be filed in the office in which petitions for nomination to office are required by law to be filed not less than fifteen days before such recall election.

**Sec. 4. Recall after six months—Members of legislature.**—No recall petition shall be circulated or filed against any officer until he has actually held his office for at least six months, save and except it may be filed against any member of the state legislature at any time after five days from the convening and organizing of the legislature after his election.

After one recall petition and election, no further petition shall be filed against the same officer during the term for which he was elected, unless the petitioners signing said petition shall equal fifty percentum of the votes cast at the last preceding general election for all of the candidates for the office held by such officer as herein above defined.

If at any recall election the incumbent whose recall is sought is not recalled, he shall be repaid from the state treasury any money authorized by law and actually expended by him as expense of such election; and the legislature shall provide appropriations for such purpose.

If the governor is sought to be recalled under the provisions of this article, the duties herein imposed upon him shall be performed by the lieutenant-governor; and if the secretary of state is sought to be recalled, the duties herein imposed upon him, shall be performed by the state auditor.

The recall may also be exercised by the electors of each county, city and county, city and town of the state, with reference to the elective officers thereof, under such procedure as shall be provided by law.

Until otherwise provided by law, the legislative body of any such county, city and county, city and town may provide for the manner of exercising such recall powers in such counties, cities and counties, cities and towns, but shall not require any such recall to be signed by electors more in number than twenty-five percentum of the entire vote cast at the

last preceding election, as in section 1 hereof more particularly set forth, for all the candidates for office which the incumbent sought to be recalled occupies, as herein above defined.

Every person having authority to exercise or exercising any public or governmental duty, power or function, shall be an elective officer, or one appointed, drawn or designated in accordance with law by an elective officer or officers, or by some board, commission, person or persons legally appointed by an elective officer or officers, each of which said elective officers shall be subject to the recall provision of this constitution; provided that, subject to regulation by law, any person may, without compensation therefor, file petitions, or complaints in courts concerning crimes, or do police duty only in cases of immediate danger to person or property.

Nothing herein contained shall be construed as affecting or limiting the present or future powers of cities and counties or cities having charters adopted under the authority given by the constitution, except as in the last three preceding paragraphs expressed.

In the submission to the electors of any petition proposed under this article, all officers shall be guided by the general laws of the state, except as otherwise herein provided.

This article is self-executing, but legislation may be enacted to facilitate its operations, but in no way limiting or restricting the provisions of this article, or the powers herein reserved.

[Adopted by Initiative Petition November 5, 1912.]

#### ARTICLE XXIII—PUBLICATION OF LEGAL ADVERTISING.

Section 1. **Legal advertising.**—Proposed constitutional amendments and proposed initiated and referred bills shall be published in two issues of two newspapers of opposite political faith in each county in the state. This publication shall be made at least one week apart and not less than three nor more than five weeks before the election at which the said amendments or initiated or referred bills are to be voted upon.

[Adopted by vote of the people November 5, 1918.]

# **ELECTION LAWS**

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# I. General Elections

## A. TIME OF HOLDING.

Section		Section	
2136.	Time of holding general elections.		district attorney — District judge.
2137.	State officers to be elected. Election of United States senators.	2139.	County officers to be elected.
2138.	Judge of supreme court—Electors of president—Dis-	2140.	County commissioner—Justice —Constable—Other officers.
		2141.	Commencement of terms of office.

**2136. Time of holding general election.**—A general election shall be held in the several wards and precincts in this state on the first Tuesday of October, A. D. 1877, 1878 and 1879, and on the Tuesday succeeding the first Monday in November, A. D. 1880, and on the Tuesday succeeding the first Monday of November in every year thereafter. [G. S., §1154; G. L., §930.]

[Election day in November is a legal holiday. Section 2949.]

**2137. State officers to be elected.**—At the general election, A. D. 1878, and every alternate year thereafter, there shall be elected the following state officers, to-wit: One governor, one lieutenant-governor, one secretary of state, one state treasurer, one auditor of state, one superintendent of public instruction, and two regents of the university, and in each representative district of the state such members of the house of representatives as they may severally be entitled to. State senators shall be elected in every senatorial district at the general election in the year when the term of office of senator shall expire in such district, respectively; also, on the first Tuesday succeeding the first Monday of November, A. D. 1878, and every alternate year thereafter, there shall be elected the number of representatives in congress to which the state may be entitled. [G. S., §1156; G. L., §932.]

[See Constitution, art. 4, section 3, for election of officers and returns.]

1. The above section is referred to in Guyer vs. Stutt, 68 Colo., 422, 425.

## ELECTION OF UNITED STATES SENATORS.

**U. S. Senator—Time of election.**—At the general election in 1914 and every six years thereafter there shall be elected one United States Senator for the term next ensuing; and at the general election in 1918 and every six years thereafter there shall be elected one United States Senator for the term next ensuing. [L. '13, p. 267, §1.]

**U. S. Senator—Vacancy.**—Whenever a vacancy happens in the office of United States Senator from this State, the Governor shall make a temporary appointment to fill such vacancy until the same is filled by election as hereinafter provided. [L. '13, p. 267, §2.]

**U. S. Senator—Vacancy—Election.**—When a vacancy happens as aforesaid, the Governor shall issue a writ of election to the Secretary of State, directing him to include in his general election notice for the next general election a notice of the filling of such vacancy, whereupon the Secretary of State shall give notice accordingly, and at such election the vacancy shall be filled for the unexpired term; but if, for any reason, no United States Senator is elected at the next general election the person temporarily appointed by the Governor shall hold over until a United States Senator is elected at a succeeding general election. [L. '13, p. 267, §3.]

**What election laws apply.**—All laws of this State relating to primary and other elections shall prevail as to the election of United States Senators, and the canvass of the returns for the election of such United States Senators shall be held in the same manner as is now provided by law for the election of Representatives in Congress. [L. '13, p. 267, §4.]

**2138. Judge of the supreme court—Election of president—District attorney—District judge.**—At the general election, A. D. 1879, and every third year thereafter, there shall be elected one judge of the supreme court, and in each judicial district of the state, one district attorney. At the general election, A. D. 1880, and every fourth year thereafter, there shall be elected such a number of electors of president and vice-president of the United States as the state may be entitled to in the electoral college; and at the general election in 1882, and every sixth year thereafter, there shall be elected in each judicial district one judge of the district court. [G. S., §1157; G. L., §933.]

[See Constitution, art. 6, sections 6-8, for election and term of supreme judge.]

[See Constitution, art. 6, section 15, for election of district judge.]

[See Constitution, art. 6, section 21, for election and term of district attorney.]

1. The Constitution of Colorado, Article VI, Section 12, provides that district judges shall be elected for a term of six years. Section 15 provides that the terms of all district judges shall expire on the same day. Section 29 providing for vacancies, authorizes those elected to hold their office for the unexpired term. Section 14, as it stood in 1878, provided for an increase in the number of districts and judges not oftener than once in six years. By the amendment of 1886 such increase can be made at any legislative session, and such an increase was made in 1887. **Held** that, in order to cause the expiration of all terms on the same day the provision of Section 12 is to be considered as so far modified that the judges of new districts, and additional judges of old districts, hold only until the next regular election of judges. In re Election of District Judges, 11 Colo., 373.

2. Judges of the district court who are elected at the regular sexennial election hold their office for the term of six years, and those elected to fill a vacancy hold only for the expired term. *People ex rel Bentley vs. LeFevre*, 21 Colo., 218, 243.

3. The above session is referred to in *Guyer vs. Stutt*, 68 Colo., 422, 425.

**2139. County officers to be elected.**—At the general election, A. D. 1877, and every alternate year thereafter, there shall be elected in every county of the state the following county officers, to-wit: One county clerk, who shall be ex officio recorder of deeds and clerk of the board of county commissioners; one sheriff, one coroner, one treasurer, who shall be collector of taxes; one county superintendent of schools, one county surveyor and one county assessor. There shall also be elected in every county of the state at the general election, A. D. 1877, and every third year thereafter, one county judge. [G. S., §1155; G. L., §931.]

[See Constitution, art. 14, section 8, for election of county officers.]

[See Constitution, art. 6, section 22, for election and term of county judge.]

[For time of election of juvenile judge see section 1594.]

1. The above section is referred to in *Guyer vs. Stutt*, 68 Colo., 422, 425.

**2140. County commissioners—Justice—Constable—Other officers.**—At the general election, A. D. 1877, and annually thereafter, there shall be elected in each county of the state one county commissioner, whose term of office shall be three years, and in each justice's precinct, except wards in incorporated cities, there shall be elected at the general election, A. D. 1877, and annually thereafter, one justice of the peace and one constable, whose terms of office shall be two years; and all other officers, not herein specified, that now are or hereafter may be created shall, unless otherwise provided, be elected on the day of the general election. [G. S., §1158; G. L., §934.]

[This section nullified by Amendment to Constitution, art. 14, section 8.]

[See Constitution, art. 14, section 6, for election of county commissioners.]

[See Constitution, art. 14, section 11, for election of justices and constables.]

1. The above section is referred to in *Guyer vs. Stutt*, 68 Colo., 427, 425.

**2141. Commencement of terms of office.**—The regular term of office of all state, district, county and precinct officers and of the judges of the supreme court shall commence on the second Tuesday of January next after their election, except as otherwise provided by law. [G. S., §1160; L. '81, p. 113, §1; amending G. L., §936.]

1. The above section is referred to in *People ex rel Robinson vs. Boughton*, 5 Colo., 487, 490.
2. The regular term of office of a county commissioner commences on the second Tuesday of January after his election. *People ex rel Jones vs. Carver*, 5 Colo. App., 157, 158.
3. The above section is referred to in *re Election of District Judges*, 11 Colo., 373, 375.
4. The regular terms of district judges begin on the second Tuesday of January next after their election. *People ex rel Bentley vs. Le Fevre*, 21 Colo., 218, 228.
5. The above section is referred to in *People ex rel Bentley vs. Le Fevre*, 21 Colo., 218, 243.

### B. CALL AND NOTICE OF ELECTIONS.

Section		Section	
2142.	Secretary of state notify county clerks.	2144.	County clerk to give notice of election.
2143.	Vacancies to be filled at general election—Notice.	2145.	Submitting constitutional amendments.

**2142. Secretary of state notify county clerks.**—The secretary of state shall at least thirty days previous to any general election, at which officers of the executive department, regents of the university, members of the general assembly, judges of the supreme and district courts, district attorneys, representatives in congress, and presidential electors, are to be elected for a full term, make out and cause to be delivered, or transmitted by registered letter, to the county clerk of each county, a notice in writing, stating that at the next general election the before mentioned officers are to be elected, or so many of such officers as are then to be chosen; when members of the general assembly are to be elected, and are included in such notice, it shall specify the number of the district, and the name of the member or members whose terms of office will expire. [G. S., §1168; G. L., §944.]

1. This section referred to in *re Election of District Judges*, 11 Colo., 373, 374.
2. "It was evidently the legislative purpose to require these notices to be published to give voters full information of the offices which are to be filled." *People vs. Kerwin*, 10 Colo. App., 472, 475.

**2143. Vacancies to be filled at general election—Notice.**—Whenever there is a vacancy in any of the offices mentioned in the preceding section, (which is by law to be filled at the general election, at which county officers are elected), the secretary of state, shall, at least thirty days previous to said election, give notice in writing as provided for in the preceding section, and said notice shall specify the office in which a vacancy exists; the cause of such vacancy; the name of the officer in whose office it has occurred, and the time when his term of office will expire. [G. S., §1169; G. L., §945.]

1. See note 2 under previous section.

**2144. County clerk give notice of election.**—The county clerk shall give notice in writing of each general or special election, in which shall be stated the time when it will be held, and the officers then to be elected, by causing the same to be published in a newspaper having general circulation in the county, and sending a copy of such notice by mail to the judges of election in each precinct, to be posted at the place of voting, at least fifteen days before such time. [G. S., §1170; G. L., §946.]

Where the office of county commissioner became vacant by death of the incumbent nine days before a general election, and no notice was given by the county clerk of the election of a commissioner as required by Section 1170, General Statutes, and no nominations were made by the different political parties of candidates for said office, but a committee purporting to represent one political party for the purpose of filling vacancies in nominations, filed, with the county clerk a nomination for said office whose name was printed on the ballot and voted for, such election was invalid for the reason that no such public notice was given as is required by statute, and a party appointed by the governor to fill such vacancy was entitled to the office. *People vs. Kerwin*, 10 Colo. App., 472.

**2145. Submitting constitutional amendments.**—Whenever a proposed constitutional amendment or other question (except the incurring of a bonded indebtedness) is to be submitted to the people of the state, for popular vote at any general election, the secretary of state shall duly, and not less than fifteen days before election, certify the same to the clerk of each county of the state, and the clerk of each county shall include the propositions or questions to be submitted as they will appear in the ballot to be used on election day, in the publication provided for by section eleven of this act, and in the notice provided for by section 12. [L. '91, p. 150, §16.]

[Section 11 referred to is section 2159.]

[Section 12 referred to is section 2160.]

1. This section referred to in re House resolution No. 10, 50 Colo., 71, 75.

### C. QUALIFICATIONS OF ELECTORS.

Section	Section
2146. Qualifications of voters.	2149. Absence in military service—
2147. Right of women to vote—Qualifications.	Students—Paupers.
2148. Prisoners can not vote—Effect of pardon or full service—Lunatics.	2150. Qualified electors eligible to office.

**2146. Qualifications of voter.**—Every person over the age of twenty-one years, possessing the following qualifications, shall be entitled to vote at all elections:

*First*—He shall be a citizen of the United States.

*Second*—He shall have resided in this state one year immediately preceding the election at which he offers to vote; in the county ninety days; in the city or town thirty days, and in the ward or precinct ten days. [L. '03, p. 214, §1; amending G. S., §1150; L. '81, p. 113, §1; which amended G. L., §921.]

1. The old section, General Statutes 1883, Section 1150, is referred to in *County Commissioners vs. Love*, 26 Colo., 304, which is a decision under the old constitutional provisions relative to electoral qualifications.

**2147. Right of women to vote—Qualifications.**—That every female person shall be entitled to vote at all elections, in the same manner in all respects as male persons are, or shall be entitled to vote by the constitution and laws of this state, and the same qualifications as to age, citizenship, and time of residence in the state, county, city, ward and precinct; and all other qualifications required by law to entitle male persons to vote shall be required to entitle female persons to vote. [L. '93, p. 256, §1.]

**2148. Prisoners can not vote—Effect of pardon or full service—Lunatics.**—No person under guardianship, non compos mentis, or insane, shall be qualified to vote at any election, nor shall any person while confined in any public prison be entitled to vote, but every such person who was a qualified elector prior to such imprisonment, and who is released therefrom by pardon or by having served out his full term of imprisonment, shall be vested with all the rights of citizenship except as provided in the constitution. [G. C., §1151; G. L., §927.]

[See also section 2027.]

**2149. Absence in military service—Students—Paupers.**—For the purpose of voting and eligibility to office, no person shall be deemed to have gained a residence by reason of his presence, or lost it by reason of his absence, while in the civil or military service of the state or of the United States, nor while a student at any institution of learning, nor while kept at public expense in any poorhouse or other asylum, nor while confined in public prison. [G. S., §1152; G. L., §928.]

**2150. Qualified electors eligible to office.**—Every qualified elector shall be eligible to hold any office of this state for which he is an elector, except as otherwise provided by the constitution. [G. S., §1153; G. L., §929.]

[When conviction of felony disqualifies from holding office. Section 2026.]

**Section 1. Taxpaying Electors—Definitions.**—The term "taxpayer," "taxpaying elector" or "qualified taxpaying elector" shall be held to mean and include only those persons who are qualified voters under the registration and election laws of this State and who, in the calendar year last preceding the election at which such vote is offered, shall have paid a tax, or be liable for the payment of such tax upon real or personal property assessed to them and owned by them in the county where such vote is offered. And the taking or placing of the title to property in the name of another, or the payment of taxes or the taking or issuing of a tax receipt in the name of another, for the purpose of attempting to qualify such person as a "taxpayer" or as a "taxpaying elector" or as a "qualified taxpaying elector" shall be deemed a fraud against the ballot and any ballot cast by such person shall be void.

**Sec. 2. Persons benefitting by violation of this act shall forfeit ill-gotten gains.**—Any person, company, corporation or association violating any of the terms or provisions of this act, or aiding or assisting any one to violate the same, either directly or indirectly, shall forfeit and lose all rights, franchises or other benefits accruing or to accrue to the benefit of such person, company, corporation or association by or as the result of any such election, and the same shall be null and void. [L. '09, pp. 511, 512, §1, 2.]

1. The statute of 5 and 6 Edward 6, Ch. 16, insofar as the same disqualifies a person from holding an office who has resorted to corrupt means to obtain has not any force in this state. The above section repeals that statute. *People ex rel Thomas vs. Goddard*, 8 Colo., 432.

2. "The constitution enjoins upon the legislative assembly the duty of passing laws to preserve the purity of the ballot, but that instrument does not make the specific misconduct charged in this information a disqualification to hold office. *People ex rel Thomas vs. Goddard*, 8 Colo., 432, 434.

**Section 1.** At an election held under C. 153, of the Acts of 1899, (Revised Statutes, Section 6525, Cl. 67). Only taxpayers of the city are entitled to vote. A taxpayer of a county residing within the city, but paying no taxes on property within the city, is not entitled to vote. *Citizens of Loveland vs. Western Light & Power Co.*, 65 Colo., 55.

## **D. NOMINATION AND CERTIFICATION OF CANDIDATES.**

### **1. PRIMARIES.**

**Section 1. Nominations by direct primary elections—Exceptions—Assembly nominations—Certification.**—That all political parties shall make all nominations for candidates for the United States Senate, members of the House of Representatives in Congress, all elective State, District, city, county, city and county, ward and precinct offices, members of the Senate and House of Representatives of the State of Colorado, by direct primary elections, and the Secretary of State and county and city clerks in the several counties in Colorado are prohibited from placing on the official election ballot the name of any person as a candidate of any political party not nominated in accordance with the provisions of this act; *Provided*, That this act, except as hereinafter specifically provided for, shall not be held to apply to nominations for special elections for filling vacancies for unexpired terms, and shall not be held to refer

to nominations to municipal offices of any "Incorporated Town," so denominated under the statutes of the State of Colorado, and shall not be held to apply to the selection of delegates to any national political assemblies or to the nomination of presidential electors; and *Provided further*, That all such last named nominations by political parties shall be made by assemblies of the several political parties, and delegates to assemblies of political parties shall be selected as specified by the rules and regulations of the respective political parties participating therein; and *Provided further*, That the certification of the due and proper nomination of candidates for presidential electors and for the several offices above referred to in "Incorporated Towns," and to fill vacancies shall be as respectively provided by law.

[For Nomination and Election of U. S. Senators, see Pages 25-26.]

1. In common use the phrase "political party" is synonymous with political organization; but the legislature by C. 4 of the Laws of 1910, made a marked distinction between them. Election Commission of the City and County of Denver vs. The People ex rel Lee, 58 Colo., 105.

2. An association of electors, who, by petition, place upon the official ballot, individual nominees for public office are a "political organization," even though this is not their intention. *Idem*.

3. To become a political party it must participate in the election, and its candidate for governor must receive at least 10 per cent of the total vote cast at such election. *Idem*.

4. A political party cannot nominate by petition, nor can a political organization so nominating, adopt any portion of the name of a political party then existing. *Idem*.

5. A political organization is, under the statute, a distinct entity which can neither coalesce with another, nor lose its identity therein by the mere fact that its candidates, principles, and management are the same. *Idem*.

**Sec. 2. Political parties to have separate tickets—Political party defined—Assembly defined.**—Any political organization which, at the general election last preceding any primary election provided for in this act, was represented on the official ballot by either regular party candidates or by individual nominees only may, upon complying with the provisions of this act have a separate primary election ticket as a political party, if its candidate for Governor received ten per cent of the total vote cast at such last preceding general election in this State; and any such political organization shall be a "political party," within the meaning of the term used in this act. An assembly of a political party within the meaning of this act is an organized assemblage of voters or delegates representing such political party, organized in accordance with the rules and regulations of such political party.

1. See notes 1 to 5, inclusive, under the previous section.

2. Distinct political organizations, under different names, presented the same gentlemen as their candidate for governor. One of these was denominated the Progressive Party. On application to the Election Commission of Denver by those claiming this title, to accept and use in the appointment of judges and registrars, at the next succeeding election, certain electors nominated by them; *Held* that the votes cast by all these several organizations for the same candidate, were not to be considered as cast by the Progressive Party. The right of the relator it was said is not conditioned upon the number of votes which its candidate received, but upon the number which his organization cast. Election Commission of the City and County of Denver vs. The People ex rel Lee, 58 Colo., 105.

**Sec. 3. This act effective—Direct primary election, when and where held.**—This Act shall be, and become effective for the nomination of candidates for election in November, 1912. A direct primary election to nominate candidates to be voted for at the general election in November, 1912, shall be held at the regular polling places in each precinct on the second Tuesday of September, 1912, and biennially thereafter, for the nomination of candidates to be voted for at the succeeding general election. Every direct primary election other than the September primary election shall be held four weeks before the election for which candidates are to be nominated at such direct primary election.

**Sec. 4. Candidates for nomination, how placed on ballot.**—All candidates for nominations to be made at any such primary election shall be placed on the direct primary ballot by petition or certificate of designation by assembly, as hereinafter provided.

No such petition shall contain the name of more than one person for the same office. Every such petition shall state the name of the office for which such person is a candidate, his name, postoffice, residence, and street number of residence, and place of business, if any, and shall designate in not more than three words the name of the political party which such candidate represents. All such assembly candidates for nomination by a political party shall be certified by the presiding officer and secretary of the assembly of the political party making the same, and shall be filed within the time, and with the same officer with whom nominations by petition for like offices are to be filed, as in this Act provided; and such presiding officer and secretary so certifying to said candidate for nomination shall add to their signature their respective places of residence and postoffice address, and make oath by affidavit thereto attached before an officer qualified to acknowledge the same that affiants are such officers of such assembly and that the statements contained in such certificate are true to the best of their knowledge and belief.

Assembly designations of candidates for nomination on the Direct Primary Ballot may be made by assemblies of the several political parties and delegates to such assemblies of political parties selected as specified by the rules and regulations of the respective political parties as now provided for the holding of assemblies, or as hereafter may be provided by such political parties for the holding of assemblies by the respective political parties participating therein and as follows:

Any such assembly shall take only one ballot upon candidates for each office to be filled at the ensuing election and within the jurisdiction of such assembly.

Every such candidate receiving ten per cent, or more, of the votes of the duly accredited delegates to such assembly for any office to be voted upon at such ensuing election, shall be certified as hereinbefore provided, and shall be placed upon the Direct Primary Ballot as a candidate for such office before the ensuing Primary election.

All candidates designated and certified by assembly for a particular office shall be placed on the Direct Primary Ballot in the order of the vote received by each such candidate: That is to say, the candidate receiving the highest vote shall be placed first in order on such Direct Primary Ballot, followed by the candidate receiving the next highest vote, and so on until all of the candidates so designated by such assembly shall have been placed on such ballot; *Provided*, that no assembly shall in any wise declare that any candidate voted for, has received the nomination of any such assembly, and, *Provided further*, that any candidate so designated by assembly shall file his written acceptance of the same with the officer with whom certificates and petitions are herein provided to be filed, within seven days after the adjournment of such assembly. All candidates by petition for any particular office shall follow assembly candidates and shall be placed on the Direct Primary Ballot in alphabetical order.

[See Forms P. E. Nos. 3 and 4.]

**Sec. 5. Number of signatures required on petitions—Limitations—Electors signing petition to give address and precincts, and make oath—Petition requirements—Acceptance of candidate.**—Every such petition in the case of a candidate for any National, State or district office greater than a county, shall be signed by not less than three hundred duly qualified electors, resident within the State or district for which the officer is to be elected, and in the case of a candidate for any other elective office, shall be signed by not less than one hundred duly qualified electors, resident within the political subdivision for which the officer is to be elected; *Provided*, however, That no such petition shall require more signers thereto than ten per cent of the gubernatorial votes cast by such political party at the last preceding election in such political subdivision. The electors supporting such petition shall write opposite their names their respective addresses, and election precincts wherein resident as such electors, and shall make oath by affidavit thereto attached, before

any officer authorized to administer the same, to the truth thereof, and that each such candidate is placed in nomination on behalf of the political party named in the petition, and is affiliated with the principles thereof; that affiants intend to vote for such candidate at the ensuing direct primary election, and that affiants have not signed any other petition for any other candidate for the same office designated by such petition. Such petition may consist of one or more sheets, to be fastened together in the form of one petition, but each sheet shall contain the same heading, and the affidavit of the subscribing electors shall be endorsed on the sheet on which their names shall be signed. Every such petition before the same is filed with the proper officer as herein designated, shall have endorsed thereon or thereto appended in writing, either on the first or last sheet of said petition, the acceptance of such candidate of such nomination by acknowledgment before any officer authorized to take acknowledgments.

[See Forms P. E. Nos. 1 and 2.]

**Sec. 6. Petitions, where, when, and with whom filed.**—Every such petition shall, in the case of a candidate for any National, State or district office greater than a county, be filed in the office of the Secretary of State, and in the case of a candidate for any other elective office, other than municipal or city, in the office of the county clerk wherein such candidate is placed in nomination, not more than sixty days and not less than thirty days prior to the ensuing direct primary election, and in the case of a municipal or city candidate, in the office of the municipal or city clerk, not more than thirty days and not less than twenty days prior to the ensuing direct primary election.

[See Form P. E. No. 8.]

**Sec. 7. Secretary of state shall transmit list of candidates to county clerks—Primary election notice to be published and posted.**—At least twenty days before any September direct primary election, the Secretary of State shall transmit to each county clerk a certified list of each and every person entitled to be voted for at such primary election, and the office for which such person is a candidate, together with the other details mentioned in the nomination papers filed in the office of the Secretary of State. Each county clerk shall, at least ten days before the September direct primary election, publish once in a condensed form under the proper party designation and under the title of each office, the names and addresses of all persons for whom nomination papers have been filed, insofar as the same shall effect the electors of his county, giving the date of the direct primary election, the hours during which the polls will be open, and reciting that the said primary election will be held in the lawful polling places designated in each precinct, and shall cause to be posted copies of such notice in at least two public places in all rural precincts in his county.

**Sec. 8. Publication in two newspapers.**—Any publication required in this act shall be made once in two newspapers, if such there be, of general circulation, published in each county or city where such direct primary elections are to be held, representing the two political parties that cast respectively the largest and the next largest vote in such city or county at the last preceding general election.

**Sec. 9. Method of voting—Separate party ballots—City and municipal elections—Form of ballot.**—The method of voting at such direct primary election shall be by ballot, as herein provided.

Not later than ten days before the September direct primary election, the county clerk shall group all the candidates for each party by themselves and shall prepare at once in writing a separate sample ballot for each party for public inspection and shall forthwith proceed to have the primary election ballots printed in the following manner:

All tickets shall be uniform in color and size, shall be white and printed in black ink. Across the head of each ballot shall be printed in plain black type, "OFFICIAL DIRECT PRIMARY ELECTION BALLOT." On the next line shall be printed the name of the political party, and below that the precinct, ward, city and county in which the ballot is to be used. Then shall follow the words, "To Vote for a Person Mark a Cross (X) in the First Square at the Right of the Name of the Person For Whom You Desire to Vote." Beginning at the top of the left hand column at the left of the line in black type, shall appear the designated office for which the respective names following are the names of candidates, and to the extreme right of the same line the words, "Vote For," then the words, "One," "Two," or a spelled number designating how many persons under that head are to be voted for.

Following this shall come the name of each candidate for that office, enclosed in a light-faced rule, with a square to the right of said name, said square being separated by a heavy, black-faced rule, the parallel rules containing the names and the squares to be one-sixth of an inch apart and not more than two and one-sixth inches long over all, and following the names of all the candidates for any particular office shall be a blank space or spaces, wherein the voter may write the name or names of one or more candidates according to the number of candidates to be nominated for such office, for which the voter is entitled to vote. Each position, with the names of the candidates for that office shall be separated from the following one by a black-faced rule, to separate each position clearly. The positions shall be arranged as follows, insofar as selections are to be made or preferences indicated in such county under the provisions of this act: First, candidates for United States Senator; next, congressional candidates; next, State candidates; next, legislative candidates; next, other district candidates greater than a county; next, county candidates; next, precinct candidates; next, candidates for precinct members of the party committees of the several parties. The names of the candidates for each office upon the ballot and under the heading designating each official position upon the ballot to be used in voting, shall be arranged as provided in section 4 of this act. A black space two inches square shall be printed on the face of the ballot in the lower, left-hand corner of each ticket of the ballot. There shall be no other printing or distinguishing marks on the ballot except as in this act specifically provided. Sample ballots shall be in the same form as the official ballot, but upon colored paper.

In the city or municipal elections, it shall be the duty of the city or municipal clerk to prepare the ballots and arrange the positions of the offices on such ballots, commencing with the office of mayor, using his reasonable discretion as to such arrangement. The duties provided for in this act to be performed by the county clerk with reference to candidates for county and district offices or either of them, shall in like manner be performed by the city or municipal clerk in each city or municipality, with reference to the preparation of ballots and all other matters connected with direct primary election for candidates for city or municipal offices.

The form of ballot shall be substantially as follows:

**"OFFICIAL DIRECT PRIMARY ELECTION BALLOT."**

.....PARTY. (DESIGNATION OF PARTY.)  
 .....Precinct .....Ward .....City .....County

To vote for a person mark a cross (X) in the first square at the right of the name of the person for whom you desire to vote.

<b>United States Senator</b>	<b>Vote for one</b>	<b>Representative in Con- gress ..... District</b>	<b>Vote for one</b>
John Doe		John Doe	
John Doe		John Doe	
John Doe		John Doe	
<b>Governor</b>	<b>Vote for one</b>	<b>State Auditor</b>	<b>Vote for one</b>
John Doe		John Doe	
John Doe		John Doe	
John Doe		John Doe	
<b>Representative to General Assembly ..... District</b>	<b>Vote for .....</b>	<b>Regents of State University</b>	<b>Vote for two</b>
John Doe		John Doe	
John Doe		R. Roe	
		John Doe	
<b>County Clerk and Recorder</b>	<b>Vote for one</b>	R. Roe	
John Doe			
John Doe		<b>Constable ..... Precinct</b>	<b>Vote for one</b>
John Doe			
<b>County Superintendent of Schools</b>	<b>Vote for one</b>	<b>Precinct Committeeman .....Precinct</b>	<b>Vote for one</b>
Mary Doe			

When offices other than those given in the form above are to be filled at the coming election, the officer preparing the ballot shall use

substantially the above form, putting the proper designation of the office in the space as above, and the names of the candidates therefor under the same, as indicated.

[See Form P. E. No. 7.]

**Sec. 10. Party ballots to be fastened together.**—All party direct primary elections to be held at same time and place.—Each political party entitled to participate in any direct primary election shall have a separate party ticket and all such party tickets shall have a perforated stub at the top thereof, not less than one inch in width, and the several tickets of each political party shall be securely fastened together at the top and folded by one of the judges of election prior to delivery thereof to the voter. The direct primary election of all political parties shall be held at the same time and at the same polling places and shall be conducted by the same election officials.

This section is referred to in Election Commission of the City and County of Denver vs. The People ex rel Lee, 58 Colo., 105, 108. See the notes under Section 1, page 46.

**Sec. 11. Qualifications of voters at direct primary elections.**—Spoiled ballots—Challenged voter to make oath.—Every person possessing the constitutional qualifications of a voter, over the age of twenty-one years, a citizen of the United States, and who shall have resided in the State one year immediately preceding the ensuing election at which such person may legally vote, and who shall have resided in the county ninety days, in the city or town thirty days, and in the ward or precinct ten days next preceding such primary election, shall be entitled to vote thereat; *Provided*, That every such voter shall also be properly registered, if such registration shall be required by law for primary elections. Each voter desiring to vote at said primary election shall have the right to receive a ballot made up as aforesaid, and upon receiving said ballot the voter shall retire to one of the booths provided for such primary election and without undue delay, mark the respective party ballot desired to be voted by him, and shall then return the party ballot to be voted, to one of the judges of election by whom the same shall be numbered by writing, in the order in which it shall be received, the number thereof, on the opposite side of the black square aforesaid, and the corner whereof shall be turned and pasted down so that such number shall be concealed by said black square. Immediately thereafter said party ballot shall be by the voter deposited in the ballot box provided for that purpose, in the presence of the election officers. The remaining tickets attached together shall be folded in like manner by the voter, who shall thereupon without leaving the polling place deposit the remaining tickets in a separate ballot box to be marked and designated as the Blank Ballot Box. In the event of any such ballot being spoiled, the voter shall be entitled to receive additional ballots as provided by law for general elections. The voter shall designate his choice of candidates on his party ballot by marking a cross in each of the small squares at the right of the names of candidates for whom he desires to vote, and shall not vote for more candidates for each office than are to be elected thereto at the election to follow the direct primary election, as indicated on the said ballot at the right of each office for which candidates are to be elected. Any voter instead of voting for a candidate whose name is printed on his party ballot, shall be entitled to vote for any other eligible person who is a member of his political party, in lieu of such candidate, by writing the name of such person in the blank space immediately following the printed names of candidates for such office; *Provided, further*, That in no case shall the voter write on his party ballot the name of any candidate appearing on any other party ballot. Immediately after the ballots voted shall have been counted and certified to by the clerks and judges as herein provided, said clerks and judges shall without examination destroy the tickets deposited in the Blank Ballot Box. If such voter is challenged he shall be required to make oath or affirm as follows: "I do hereby solemnly

swear (or affirm) that I am a qualified voter, that I am a member of and affiliated with one of the political parties represented by ballot at this primary election, and that I will at this election vote only under the ballot and only for the candidates of the political party of which I am a member and with which I am affiliated." Said oath shall be administered to one or more voters at the same time.

[See Form P. E. No. 16.]

1. Under C. 4 of the Acts of 1910, it is not required that those subscribing the petition for the nomination of a candidate shall be registered voters. The subscriber's character as a voter being established by the affidavit prescribed by the statute, no more can be required. *Benson vs. The Election Commission*, 62 Colo., 206.

**Sec. 12. Defective ballots—Intent of voter must govern.**—If it is impossible to determine the choice of any voter for any nomination to be made, his ballot shall not be counted for such office; *Provided*, That a defective or imperfect cross on any ballot in a proper place shall be counted, if there be no other mark or cross in ink on such ballot indicating an intention to vote for some person or persons other than those indicated by the first mentioned defective cross or mark for some other candidate for the same office. If an imperfect cross or mark in ink be found near the name of a candidate, which cross or mark appears to have been made with intent to designate the candidate so marked as the one voted for, such ballot shall not be rejected if the intent of the voter to designate the person for whom he wished to vote can be reasonably gathered therefrom.

**Sec. 13. General election laws to apply to primary elections.**—Except as herein otherwise provided all direct primary elections shall be conducted the same as general elections under the general election laws of the State of Colorado, as far as the provisions thereof are applicable, and the election officers for such primary elections shall have the same powers and shall perform the same duties as those provided by law for general elections.

**Sec. 14. Appointment of judges and clerks.**—Judges and clerks of direct primary elections shall be appointed and designated in the manner provided for the conduct of general elections under the laws of the State of Colorado, and the judges of direct primary elections shall in all cases be the registrars of elections and the regularly appointed election judges for general elections under the laws of the State of Colorado.

**Sec. 15. Party chairman to certify names of watchers to election judges—Penalty for not allowing watchers to act—Fees of judges and clerks.**—Each political party participating in a direct primary election under the provisions of this act shall be entitled to have one of its members serve as watcher of such election in each voting precinct in the city or county where such primary election shall be held; *Provided*, That the chairman of the county or city committee of such political party shall certify the names of the persons so selected to the judges of election in the several precincts, and such persons shall be entitled to enter into the polling places and to witness the casting and counting of the ballots at such primary election; and *Provided further*, That any and all judges of election who shall refuse to allow any duly appointed watcher as herein provided to act, shall be deemed guilty of a misdemeanor, and on conviction shall be punished by confinement in the county jail, not less than thirty days nor more than six months.

The same fees shall be allowed and paid from the public funds for the services of anyone so serving as a judge, or clerk of direct primary elections as is provided by law for such services for general elections.

**Sec. 16. Secretary of state to provide copies of this law.**—The Secretary of State shall provide copies of this law, in conjunction with the general election laws of the State and transmit the same to the county clerk of each county at least twenty (20) days before any such direct

primary election, and the same shall be in lieu of any such copies of said general election laws required to be transmitted to county clerks by the Secretary of State for use in such counties.

**Sec. 17. When polls are to open and close.**—The polls of the several election precincts on direct primary election day shall be kept open from 7 o'clock in the morning until 7 o'clock in the evening of said day. If at the hour of closing there are electors at the polling place desiring to vote and who are qualified to participate therein, and who have not been able to do so since appearing at the polling place, said polls shall be kept open long enough after the hour of closing to allow those so present at that hour to vote. No one not present at the hour of closing shall be entitled to vote because the polls may not be actually closed when he arrives. No adjournment or intermission whatever shall take place until the polls shall be closed, and until all the votes cast at such poll have been counted and the result publicly announced.

**Sec. 18. Duties of judges and clerks in counting ballots.**—As soon as the polls are finally closed, the judges of election shall open the ballot boxes at each polling place and proceed to take therefrom the ballots. Said officers shall count the number of ballots cast by each party, at the same time bunching the tickets cast for each party together in separate piles, and shall then fasten each pile together. As soon as the clerks and judges shall have assorted and fastened together the ballots of each separate party, they shall take the tally sheets provided by the county, municipal or city clerk, and shall count all the ballots for each party separately until the count is completed, and shall certify to the number of votes cast for each candidate. The tally sheets shall be so kept that such sheets shall show the number of votes received. They shall then place the counted ballots in a box, but in no case shall they intermingle party votes. After all have been counted and certified to by the clerks and judges, they shall seal the returns for all parties in one envelope, to be returned to the county, municipal or city clerk.

[See Form P. E. No. 10.]

**Sec. 19. Tally sheets furnished—Form of tally sheets—Arrangement of names on tally sheets.**—Two sets of tally sheets for each political party having candidates to be voted for at said direct primary election shall be furnished for each election precinct by the county, municipal or city clerk, at the same time and in the same manner that the ballots are furnished, and shall be as follows:

Each tally sheet, or the first sheet of each tally book to be furnished, shall be headed, "Tally sheet for.....  
 .....(name of political party).....  
 .....(name of city).....(county).....  
 .....(ward).....(election precinct), for a direct primary  
 election held.....(date)."

The names of candidates shall be placed on the tally sheets in the order in which they appear on the official ballots, and in each case shall have the proper designation at the head thereof.

[See Form P. E. No. 9.]

**Sec. 20. General election laws to apply.**—In making out and certifying the returns of the direct primary election in the several election precincts, the same shall be done and all acts pertaining thereto conducted in accordance with the provisions of the general election laws for the returns of general elections, except as herein otherwise provided.

**Sec. 21. Precinct officers—Election of same—Term—Vacancies in committees, how filed—State central committee to make rules.**—There shall be elected by each political party, subject to this law, at said biennial direct primary election, a committeeman and committeewoman for each

election precinct, who shall be a resident of such precinct. The candidate for committeeman or committeewoman in any precinct, who receives a plurality of votes on any party direct primary ballot, shall be declared the elected committeeman and committeewoman of such party for such precinct. The members of the committee thus elected shall be the Representatives of their respective political parties in and for such precincts in all ward or subdivision committees that may be formed. The members of the committee elected in each precinct in each county shall constitute the county central committee of each of said respective political parties. And the members of the committee elected in the several precincts in each city or municipality shall constitute the city or municipal central committee of each of said respective political parties, and shall have the same powers and jurisdiction as to the affairs of their several parties in such city or municipal matters that the county committee has in county matters. Each member of the committee shall hold such position for the term of two years from the date of the first meeting of said committee immediately following the election. In case of a vacancy the remaining members of said county, city or municipal committee may select a successor to fill the vacancy, who shall be a resident of the precinct in which the vacancy occurred.

Vacancies in nominations occurring after the holding of any direct primary election, prior to eight days before election, shall be filled by the respective party committees of the city, municipality, district, county or State, as the case may be, in which such vacancies occur. Certificates of nomination to fill such vacancies shall be forthwith prepared and filed by such respective party committees with the respective officers in whose offices original petitions of candidacy are by this act required to be filed.

All of said county, municipal and city committees, together with the respective candidates nominated for office, shall meet to organize by electing a chairman, and a vice-chairman who shall be a woman, and a secretary, within five (5) days after the candidates for their respective political parties shall have been nominated. The chairman and vice-chairman of the several party county committees shall constitute the State Central Committee of each such party, and the chairman and vice-chairman of the several county committees shall also constitute the congressional, judicial, senatorial and representative committees for the counties composing each such congressional, judicial, senatorial or representative district, respectively. Said State, congressional, judicial, senatorial and representative central committee of the respective political parties together with the respective candidates nominated for office shall meet to organize by electing a chairman and a vice-chairman as above provided, and secretary of each of said committees, respectively, within ten days after the nomination of such candidates; *Provided*, That any political party that polled ten thousand (10,000) votes at the last preceding general election for its candidate for Governor shall be entitled to two additional members of said State Central Committee from such county, one of whom shall be a woman and two such additional members thereof for each additional ten thousand (10,000) votes or major portion thereof so polled. Such additional members of said State Central Committee shall be elected by the respective county central committees of the several political parties. The State Central Committee shall have power to make all rules for party government. All vacancies in State, congressional, judicial, senatorial or representative committees shall be filled by the respective county central committees. All central committees may select managing or executive committees, and may authorize such sub-committees to exercise any and all powers conferred upon the county, city, municipal, state, congressional, judicial, senatorial or representative central committees respectively.

Regularly elected and constituted party central committees of the respective political parties, at the time this act shall take effect, shall be considered the legal committees of the respective political parties

until direct primary elections shall be held under the provisions of this act, and said central committees and each of them, and the officers and members thereof, shall be subject to all the conditions of this section.

1. This section referred to in Election Commissioners of the City and County of Denver vs. The People ex rel Lee, 58 Colo., 105, 108, see the notes under Section 1, page 46.

**Sec. 22. State platform, how formulated, when and by whom.**—The candidates for the various State Offices, and for the State Senate and House of Representatives, nominated by each political party at such direct primary election, the State Chairman and State Senators of such political party whose term of office extends beyond the second Tuesday in January of the year next ensuing shall meet in the City of Denver at a place to be designated by the respective State Chairman, at twelve o'clock noon on the fourth Tuesday of September after the date on which any direct primary election is held preliminary to any general election. They shall forthwith formulate the State platform of their respective parties. The platform of each party shall be framed and made public not later than five days after the date of such meeting.

1. This section is referred to in Election Commission of the City and County of Denver vs. People ex rel Lee, 58 Colo., 105, 108. See notes under Section 1, page 46.

**Sec. 23. Party nominees, how chosen.**—Candidates voted on for offices at direct primary elections who receive a plurality of the votes cast shall be the respective party nominees for such respective offices. In the event that there is more than one office of the same kind to be filled, then the number of candidates equal to the number of offices to be filled receiving the highest number of votes shall be the nominees of such political party for such office.

**Sec. 24. State board of canvassers—Meeting—Canvassers to file statement—Ties, how determined—Candidates to fill vacancies.**—The canvassing of the returns of the direct primary elections as to candidates for State offices, United States Senators and Representatives in Congress, and any other candidate whose district extends beyond the limits of a single county, shall be done by a board of State canvassers, consisting of the Governor, Secretary of State, Auditor of State, Treasurer of State and Attorney General, or any three of them. Said board of State canvassers shall meet at the office of the Secretary of State on the third Tuesday of September, at ten o'clock a. m., next after the holding of such direct primary election. As soon as said board has canvassed said vote it shall file a certificate with the Secretary of State, which certificate shall show the vote of each candidate of each political party for each office. The votes for all county, city and municipal officers cast at any direct primary election shall be canvassed and the returns made by the same officers and in the same manner as the returns of votes cast at the ensuing elections are by law now required to be made. Such canvassing board and other officers canvassing votes cast at such direct primary election shall file with the proper officer a statement and report of such canvass, which statement and report of said direct primary election shall contain:

**First.** A statement duly certified to containing the names of all candidates voted for at the direct primary election, with the number of votes received, and also the total number of votes received by each candidate and for what office, said statement to be made as to each political party separately.

**Second.** A statement of the names of the persons or candidates of each political party who are nominated, as hereinbefore provided. Where there is more than one person to be elected to a given office at the ensuing election there shall be included in said statement of nomination the names of so many candidates for said office, nominated under

the provisions of this act, as there are persons to be elected to said office at the ensuing election. Said statement shall, in like manner, be made separately as to each political party.

Third. A statement of the whole number of electors registered, where such official has custody of the registry of electors, and the number of ballots cast at said primary election.

If two or more candidates of the same political party are "tied" for the same office, the "tie" shall be determined in such manner as shall be agreed upon by the candidates so "tying." In case such candidates shall fail to agree upon the method of determining such "tie" within five (5) days after the completion of the canvass of such vote, the same shall then be determined by lot, to be cast then and there by and as the final canvassing board may determine. It shall be the duty of the Secretary of State or the county, city or municipal clerk, as the case may be, upon the completion of any canvass, to immediately mail or deliver in person to each candidate so nominated a notice of such fact, and that his name will be placed upon the official ballot at the ensuing election. The persons who names are so placed in said statement of nomination shall be the nominees of said respective political parties of which they are candidates, and such names shall be printed upon the official ballot prepared for the ensuing election. No names of candidates of any political party which is required to make nominations under this act shall be placed upon the official election ballot unless such candidate shall have been chosen in accordance with this act, except in case of a vacancy or vacancies, which shall be filled as herein provided. The name of such new candidate shall be certified under oath to the Secretary of State, county clerk or the city or municipal clerk, as the case may be, by the chairman and secretary of said respective party committees.

1. This section referred to in Election Commission of the City and County of Denver vs. The People ex rel Lee, 58 Colo., 105, 108. See notes under Section 1, page 46.

**Sec. 25. Errors, omissions and wrongful acts, how corrected—Duty of judge of district court—Burden of proof—Must deposit witness fees—Contempt of court.**—Whenever it shall appear by verified petition to any judge of the District Court that any error or omission has occurred, or is about to occur, in the printing of the name of any candidate on official direct primary election ballots, or that any error has been or is about to be committed in printing such ballots, or that the name of any person has been or is about to be wrongfully placed upon such ballots, or that any wrongful act has been performed or is about to be performed by any judge or clerk of the direct primary election, or by the Secretary of State, or by the county or city or municipal clerk, or by any canvassing board or any member thereof, or by any person charged with a duty under this act, or that any neglect of duty by any of the persons aforesaid has occurred, or is about to occur, such judge shall forthwith, by order, require the officer or person or persons charged with the error, wrongful act or neglect, to forthwith correct the error, desist from the wrongful act, or perform the duty, and to do as the court shall order, or to show cause forthwith why such error should not be corrected, wrongful act desisted from, or such duty or order not performed. *Provided*, that the person or persons, committee or committees complaining of any such act, shall have the burden of proof cast upon him or them in the premises, and shall be required to deposit in court the sum of two dollars (\$2.00) per day for each person so cited or summoned into court, as a party or as a witness, to be paid to the said party or witness in case the charge is not sustained, said money so deposited shall be returned to the party depositing the same in case the said charges or any of them are sustained. Failing to obey the order of such court shall be contempt of court. Every such order shall be subject to summary review by the Supreme Court upon writ of error.

**Sec. 26. Independent candidates—Nomination of same.—Candidates for public office who do not wish to affiliate with a political party as de-**

fined in this act may be nominated otherwise than by a direct primary election, in the manner following:

A certificate of nomination shall be prepared which shall contain the name or names of any candidate or candidates for the office or offices to be filled, their several postoffice addresses, if any, their several residences, and if in a city or town, the street, number of residence and place of business, if any, and shall designate in not more than five words, instead of the party, the political or other name which the signers shall select; *Provided*, That no name of any political party as defined in this act shall be used, in whole or part, for this purpose. Said certificate shall be signed by legal voters residing within the district or political division in and for which the officer or officers are to be elected, to the number of at least three hundred when the nomination is for an office to be filled by the voters of the entire State; of at least one hundred where the nomination is for an office to be filled by the voters of a district less than a State and greater than a county, or by the voters of a county or city or municipality; of at least fifty when the nomination is for an office to be filled by the voters of a precinct, ward, or other division less than a county, other than a city. The signatures to said certificate of nomination need not all be appended to one paper, but no certificate shall be legal that does not contain the requisite number of names of voters whose names do not appear on any certificate previously filed under the provisions of this section; *Provided*, That any such certificate of nomination may be amended in this last respect at any time prior to ten days before the day of election. The certificate may designate or appoint upon the face thereof one or more persons as a committee to fill vacancies, and in case of vacancy in any of such nominations, the same may be filled by such person or committee by a verified certificate to that effect, duly filed with the officer with whom the original certificate of nomination was filed, at least eight days before the day of election. Each voter signing a certificate shall add to his signature his place of residence, and shall, before an officer duly authorized to administer the same, make oath by affidavit thereto attached, that he is a voter within and for the political division for which such nomination is made, and has truly stated his residence, and has not voted at any primary election to nominate a candidate for such office. Said certificate, when executed and acknowledged as before prescribed, shall be filed with the Secretary of State, when for an office or offices to be filled by the voters of the entire State or of any division or district greater than a county; with the county clerk when for an office or offices to be filled by the voters of an entire county or county precinct, and with the city, municipal or town clerk when for an office or offices to be filled by the voters of such city, municipality or town.

The certificates of nomination to be filed with the Secretary of State shall be filed not more than sixty days nor less than thirty days before the day of election; and the certificates of nomination to be filed with the county clerk shall be filed not more than sixty nor less than fifteen days before the day of election, and the certificates of nomination to be filed with the city, municipal or town clerk shall be filed not more than thirty nor less than fifteen days before the day of election.

Within eight days after the filing of any such certificate of nomination with the proper official as aforesaid each and every candidate named in said certificate of nomination shall formally accept the nomination therein tendered in a written statement, duly acknowledged, which said statement shall contain the full name and place of residence of such candidate, and if in a city or town, the street number of the same (if any there be) and his place of business, if any, and postoffice address.

When the provisions of this section have been complied with, the candidate or candidates named in such certificates of nomination shall be entitled to all the rights and subject to all the penalties of candidates nominated at direct primary elections. This section shall be liberally

construed, so as to give independent candidates for public office every reasonable opportunity to make their candidacy effective.

[See Form P. E. Nos. 5 and 6.]

1. Statutes regulating the exercise of the elective franchise, receives such construction as will afford to the elector the greater liberty in casting his ballot. *Pease vs. Milliken*, 53 Colo., 404.

2. One who has accepted the nomination of a political party may be nominated by petition of independent voters, assuming a different party designation. *Idem*.

3. The nomination by certificate, of the candidates of an organized party, authorized by such party, are to be protected to the same extent, and in the same manner, as nominations made by convention, even though such party have not sufficient strength to make nominations by convention. The authorized use by others of the name of such party, in a certificate making nominations for an approaching election, even though prior in point of time to a certificate presented by the proper authorities of the party, will not prevent the filing of the latter. *McBroom vs. Brown*, 53 Colo., 412.

4. See Election Commission of the City and County of Denver vs. *People ex rel Lee*, 53 Colo., 105.

5. Under Chapter 4 of the Acts of 1910, it is not required that those subscribing the petition for the nomination of a candidate shall be registered voters. The subscriber's character as a voter being established by the affidavit prescribed by the statute, no more can be required. *Benson vs. The Election Commission*, 62 Colo., 206.

6. Under the provisions of Section 26, Chapter 4, S. L., 1910, providing that a certificate of nomination for an office to be filed by the voters of a district greater than a county shall be filed with the secretary of state, a certificate or nomination for the office of district attorney of the second judicial district should be filed with the secretary of state, notwithstanding the boundaries of the district were coincident with those of the county. *Brown vs. Van Cise*, 69 Colo., 242.

**Sec. 27. Secretary of state and attorney general to prepare forms.—**It shall be the duty of the Secretary of State and the Attorney General, on or before July 1, 1912, to prepare all forms necessary to carry out the provisions of this act and in accordance therewith, which forms shall be substantially followed in all direct primary elections held in pursuance thereof. Such forms shall be printed, with copies of this act, for public use and distribution.

**Sec. 28. Campaign expenses—Limitations of personal expenses defined—Penalty for violations of this section.—**No person shall, in order to aid or promote or secure his own nomination to public office, or the nomination of any other person to public office, under the provisions of this act, or any amendment thereto, directly or indirectly himself, or directly or indirectly by or through any other person for him, or on behalf of such other person, give, pay, expend or contribute, or promise to give, pay, expend or contribute any money or other valuable thing, except for personal expenses. Personal expenses within the meaning of this act shall not in any event exceed five thousand dollars (\$5,000), if such person is a candidate for United States Senator, twenty-five hundred dollars (\$2,500) if such person is a candidate for a State office or representative in Congress, and one thousand dollars (\$1,000) if such person is a candidate for any other office, and any expenditure in excess of such sums by any person or persons for any such purpose within one year prior to such direct primary shall be unlawful. No person, co-partnership, organization or corporation shall directly or indirectly contribute or expend, pay or become liable for any of the expenses of any candidate. Any candidate, or other person who, or co-partnership, organization or corporation which shall violate any of the provisions of this section shall be guilty of a felony, and on conviction shall be fined in a sum not less than five hundred dollars (\$500.00), or imprisonment in the penitentiary not less than one year, or both.

**Sec. 29. Candidates must file sworn statement of expenses.—**Every candidate for nomination under the terms of this act, or any amendment thereto, shall, not later than ten days after the day of holding the direct primary election or convention at which he is a candidate, or after

the filing of any certificate of nomination wherein such candidate is nominated for public office, file an itemized statement in writing, duly sworn to as to its correctness, with the officer with whom his declaration of candidacy or other nomination paper is filed, setting forth each sum of money and thing of value, or any consideration whatever, contributed, paid or promised by him for the purpose of securing or influencing or in any way affecting, his nomination to said office. Said statement shall set forth the sums paid as personal expenses, stating fully the nature, kind and character of the expense. Such statement, when so filed, shall immediately be subject to the inspection and examination of any elector, and shall be a part of the public records. Section 1, Chapter 116, S. L. 1921, page 293.

[See Form P. E. No. 14.]

**Sec. 30. Penalty for not filing sworn statement of expenses.**—Any candidate for nomination for any office under the terms of this act who shall fail, neglect or refuse to file with the proper officer the statement provided for in the preceding section within the time provided therein, shall be guilty of a misdemeanor and on conviction shall be fined not less than one hundred dollars (\$100) and not more than five hundred (\$500) or by imprisonment in the county jail not less than ten days nor more than six months or by both such fine and imprisonment.

**Sec. 31. Provisions of statutes to apply to direct primary elections.**—The provisions of the statutes of Colorado in relation to the holding of general elections, the giving or solicitation of bribes, the solicitation of voters at the polls, the challenging of voters, the manner of conducting elections, of counting the ballots and making returns thereof, and all other kindred subjects shall apply to all direct primary elections insofar as they are consistent with this act, the intent of this act being to place direct primary elections under the regulation and protection of the laws now in force as to general elections, except as specifically provided otherwise in this act.

**Sec. 32. Forgery.**—Any person who shall forge any name of a person as a signer or witness to a nomination paper shall be deemed guilty of forgery, and, on conviction thereof, shall be punished accordingly.

**Sec. 33. Person swearing falsely guilty of perjury.**—If any person whose vote is challenged under the provisions of this act shall knowingly, wilfully and corruptly swear or affirm falsely to any material fact, he shall be deemed guilty of perjury, and on conviction thereof, shall be punished accordingly. Section 2, Chapter 116, S. L. 1921, page 293.

Section 34 has been repealed by Sections, Chapter 116, S. L. 1921, page 294.

#### STATEMENT.

I hereby declare to the People of the State of Colorado, as well as to the People of my Legislative District, that during my term of office, I will always vote for the candidate for United States Senator in Congress who has received the highest number of the People's votes for that office at the general election next preceding the election of a Senator in Congress, without regard to my individual preference.

.....  
Signature of Candidate for Nomination.

And in such case there shall be printed on the official direct primary election ballot, opposite or just below such candidate's name the following: "Pledged to vote for People's choice for United States Senator."

**STATEMENT.**

I hereby declare to the People of the State of Colorado, and particularly to the People of my Legislative District, that, during my term of office, whenever called upon to vote for United States Senator, I will always vote for the candidate for United States Senator who has received the highest number of votes upon my party ticket for that position at the direct primary election next preceding the election of United States Senator.

.....  
Signature of Candidate for Nomination.

And in such case there shall be printed on the official direct primary election ballot, opposite or just below such candidate's name, the following: "Pledged to vote for party's choice for United States Senator."

Such declaration of candidacy or nomination paper shall be signed as above by the elector seeking such nomination.

[Section 34 impliedly repealed. See pages 3-5.]

**Sec. 35. Committee contests, how determined.**—All disputes or contests over the regularity or legality of the existence of any party committee in the State of Colorado, or any subdivision thereof, shall be determined as provided by law.

**Sec. 36. Filings to be public records—Certified copies of filings—All filings to be preserved for two years.**—All certificates of nomination, acceptances and withdrawals, as soon as filed, shall be public records, and shall be open to public inspection under proper regulations; and when a copy of any certificate of nomination, acceptance or withdrawal is presented at the time the original is filed, or at any time thereafter, and a request is made to have such copy compared and certified, the officer with whom such certificate of nomination was filed shall forthwith compare such copy with the original on file, and, if necessary, correct the copy and certify and deliver the copy to the person who presented it. All certificates of nomination, acceptances, withdrawals, poll books, tally sheets, ballots and ballot stubs shall be preserved as other records are for two years after the election to which they pertain, unless otherwise ordered or restrained by some court. After which they shall be destroyed by the official custodian thereof by fire, without anyone inspecting the same.

**Sec. 37. Withdrawal from nominations.**—Any person who has been nominated and who has accepted a nomination, as provided in this act, may cause his name to be withdrawn from nomination, at any time prior to ten days before election, by a written instrument declining such nomination, which written instrument shall be signed and acknowledged by such candidate before some officer authorized by the laws of this State to take acknowledgment of deeds, which instrument shall be filed with the Secretary of State or county, city or municipal clerk with whom the original certificate nominating such candidate was filed.

[See Form P. E. No. 15.]

**Sec. 38. Death of a candidate—Name to be erased or omitted from ballot.**—If any person nominated as herein provided dies within eight days before the day fixed by law for the election, and the fact of such death becomes known to the Secretary of State, or county, city or municipal clerk in whose office the certificate of nomination nominating such person was filed, the name of the deceased candidate shall not be printed upon the ballots for the election, and, if already printed, shall, if possible, be erased or canceled before the ballots are delivered to the electors.

**Sec. 39. Certified lists of registration furnished.**—The several county, city and municipal clerks shall furnish the election judges with certified lists of all registered voters, if such registration be required by law, along with the poll books and other election material, as provided by law for the conduct of general elections.

**Sec. 40. Bribery of voter—Penalty.**—Any person who shall offer or, with knowledge of the same, permit any person to offer for his benefit any bribe or promise of gain to a voter to induce him to sign any election paper or any person who shall accept any such bribe or promise of gain of any kind in the nature of a bribe as consideration for signing the same, whether such bribe or promise of gain in the nature of a bribe be offered or accepted before or after signing, shall be guilty of a felony, and, upon trial and conviction thereof, shall be punished by a fine of five hundred dollars (\$500.00), or by confinement in the penitentiary not less than one year, or both.

**Sec. 41. Election offenses—Punishment.**—Any act declared an offense by the general laws of this State concerning elections shall also, in like case, be an offense in all direct primary elections and shall be punished in the same form and manner as therein provided, and all the penalties and provisions of the law as to such elections, except as herein otherwise provided, shall apply in such case with equal force and to the same extent as though fully set forth in this act.

**Sec. 42. Misuse of nomination papers a misdemeanor—Punishment.**—Any person who, being in possession of nomination papers entitled to be filed under this act, or any act of the General Assembly, shall wrongfully or wilfully either destroy, mutilate, suppress, neglect or fail to cause the same to be filed at the proper time in the proper office, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by imprisonment in the county jail not to exceed six (6) months, or by a fine not to exceed five hundred dollars (\$500.00), or by both such fine and imprisonment.

**Sec. 43. Neglect of duty by direct primary election officers, a felony—Punishment.**—If any judge or clerk of a direct primary election, or other officers or persons on whom any duty is enjoined by this law, shall be guilty of any wilful neglect of such duty or of any corrupt conduct in the discharge of the same, such judge, clerk, officer or other person shall be deemed guilty of a felony, and upon conviction thereof, shall be punished by a fine of five hundred dollars (\$500.00), or by confinement in the penitentiary not less than one year, or both.

**Sec. 44. Election contests to be adjudicated by county or district court—Original jurisdiction—When the supreme court is to take original jurisdiction—Procedure—Service of petition.**—All election contests arising out of any direct primary election or the placing in nomination by petition of any such candidate, or the failure to file any such petition or place any such candidate in nomination, by any person, official, board or convention in violation of any of the provisions of this act, shall be summarily adjudicated by the County or District Court sitting within or for the political subdivision within or from which any such petition is to be filed or any such nomination is to be made or in which any such election controversy or contest may arise, and such of said respective courts first acquiring jurisdiction of any such controversy or contest, shall have original jurisdiction of any such controversy or contest as aforesaid, subject only to the summary appellate jurisdiction of the Supreme Court of the State by writ of error, and, in all cases involving petitions, nominations and elections concerning national or State offices, voted or to be voted on at any such primary election, the Supreme Court of the State shall take original jurisdiction for the purpose of summarily adjudicating any such controversy or contest. Every such procedure shall be by petition to the proper court, setting forth the grounds of complaint, and in case of any contest the contestee shall be made respondent. Said petition shall be verified and a copy thereof shall within five days after the occurrence of the ground of complaint be served on the respondent or respondents therein named, requiring such respondent or respondents to answer thereto under oath within five days after such service. If per-

sonal service of such petition can not be procured in the State on such respondent, then service thereof may be made by leaving a copy of such petition within such time with the clerk of the court having original jurisdiction of any such controversy or contest, and such clerk shall thereupon make diligent inquiry and endeavor to procure such respondent to make answer to said complaint as aforesaid, and upon the expiration of the time for such answer the court so having jurisdiction of any such controversy or contest shall forthwith set the same for trial on the merits thereof summarily adjudicating the same.

1. One proposing to contest a nomination made by petition must pursue the statute. (Laws, 1910, Chapter 4, Section 44.)

Petitioner's certificate of nomination was rejected by the secretary of state on the 6th of September. No petition of contest was presented until the 17th of October, and no verified copy of the petition of contest was served on the respondent at that time. Held that the petitioner's rights were foreclosed by their laches. *McCall vs. Pearce*, 53 Colo., 409.

2. This section referred to in *Benson vs. The Election Commission of Denver*, 62 Colo., 206.

**Sec. 45. Election expenses, how paid.**—All ballots, blanks and other supplies to be used at any direct primary election held under the provisions of this act, and all expenses incurred in the preparation or the conduct of such primary election shall be paid out of the treasury of the city, municipality, county or State, as the case may be, in the same manner, with like effect, and by the same officers as in the case of general elections.

**Sec. 46. Laws applicable to this act.**—In construing the provisions of this act, and of all sections of the general statutes of the State of Colorado hereby made applicable to direct primary elections, the provisions of the general election laws applicable to the ensuing elections, shall apply and govern, except as in this act otherwise provided.

**Sec. 47. Masculine pronoun to include feminine.**—Wherever the masculine pronoun is used in this act it shall be construed to include feminine, and it shall only be necessary for a voter to state that he is twenty-one years of age in answer to any question in relation to his age.

**Sec. 48. County clerk defined.**—Wherever the words "county clerk" are used in this act, they shall be construed to mean the county clerk and recorder.

**Sec. 49. Duties of election commissions.**—The election commission in cities having a special charter providing for such election commission, shall have all the powers and jurisdiction and perform all the duties provided by this act, in respect to county clerks, city or municipal clerks and boards of county commissioners or any other election officials or boards, subject to the general laws of this State, except as otherwise specifically provided by such charter, not inconsistent with the provisions of this act.

**Sec. 50. Repealing clause.**—All acts and parts of acts in conflict with this act are hereby repealed.

(Laws 1910, pages 15-44, Incl. Secs. 1 to 50, inclusive.)

(Laws 1921, pages 292 and 294 inclusive, Sections 1 to 5 inclusive.)

## (2) In Incorporated Towns.

Section	Section
2151. Nomination of candidates.	2157. Filing of certificates of nominations.
2152. Certificates of nominations by conventions.	2158. Certifying nominations to county clerks.
2153. Certificate of nomination by individuals.	2159. Publication and posting of nominations.
2154. Nominations other than by conventions.	2160. Lists of nominations sent to precinct officers — Lists posted.
2155. Contents of certificates of nominations.	
2156. Preservation of certificates.	

**2151. Nomination of candidates.**—Any convention of delegates of a political party which presented candidates at the last preceding election held for the purpose of making nominations to public office, and also voters to the number hereinafter specified, may nominate candidates for public offices to be filled by election within this state. A convention within the meaning of this act is an organized assemblage of voters or delegates representing a political party, which at the last election before the holding of such convention polled at least ten percentum of the entire vote cast in the state, county or other political division or district for which the nomination may be made. A committee appointed by any such convention may also make nominations to public office when authorized to do so by resolution duly passed by the convention at which such committee was appointed. [L. '91, p. 143, §3.]

1. This section is referred to in *People vs. The District Court*, 18 Colo., 26, 33, 34.

2. "The above section merely limits to the specific kind of political parties, the right to nominate by a convention or nominating committee." *Schafer vs. Whipple*, 25 Colo., 400, 404.

**2152. Certificates of nominations by convention.**—All nominations made by such convention or committee shall be certified as follows: The certificate of nomination, which shall be in writing, shall contain the name of the office for which each person is nominated, the name, post-office address, if any, and residence of each such person, and if in a city, the street, number of residence and place of business, if any, and shall designate, in not more than five words, the party which such convention or committee represents. It shall be signed by the presiding officer and secretary of such convention or committee, who shall add to their signatures their respective places of residence, and postoffice address, if any, and make oath, before an officer qualified to administer the same, that the affiants were such officers of such convention or committee, and that said certificates and the statements therein contained are true, to the best of their knowledge and belief. When the nomination is made by a committee, the certificate of nomination shall also contain a copy of the resolution passed at the convention, which authorized the committee to make such nomination. In the case of electors of president and vice-president of the United States, the names of the candidates for president and vice-president may be added to the political party or appellation. [L. '91, p. 144, §4.]

**2153. Certificates of nomination by individuals.**—Certificates of nomination of candidates for offices to be filled by the voters of the entire state, or of any division or district greater than a county, shall be filed with the secretary of state. Certificates of nomination of candidates for offices to be filled by the voters of any city or town shall be filed with the clerk of such city or town. All other certificates of nomination shall be filed with the clerks of the respective counties wherein the officers are to be elected. [L. '91, p. 144, §5.]

**2154. Nominations other than by conventions.**—Candidates for public office may be nominated otherwise than by a convention or committee in the manner following: A certificate of nomination containing the names of the candidates for the offices to be filled, with such information as is required to be given in certificates provided for by section four of this act, except that said certificate shall designate in not more than five words, instead of the party, the political or other name, which the signers shall select; shall be signed by voters residing within the district or political division, in and for which the officer or officers are to be elected, to the number of at least five hundred, when the nomination is for an office to be filled by the voters of the entire state; of at least one hundred when the nomination is for an office to be filled by the voters of a district, less than the state and greater than a county, or by the voters of a county or city; of at least fifty, when the nomination is for an office to be filled by all the voters of a ward, town or other division less than a county,

other than a city. The signatures to a certificate of nomination need not all be appended to one paper. The certificate may designate or appoint upon the face thereof, one or more persons who, for the purpose set forth in sections fourteen and fifteen of this act, shall represent the signers of said certificate. Each voter signing a certificate shall add to his signature his place of residence and shall, before an officer duly authorized to take acknowledgments, acknowledge his signature and make oath that he is a voter within and for the political division, for which such nomination is made, and has truly stated his residence. Said certificate, when executed and acknowledged as above prescribed, may be filed as provided for in section four of this act, in the same manner and with the same effect as a certificate of nomination made by a convention or committee. [L. '91, p. 144, §6.]

[Section 4 referred to is section 2152.]

[Sections 14 and 15 above referred to are sections 2162 and 2163.]

1. Section 6, p. 144, Session Laws 1891, provides that a certificate of nomination containing the names of the candidates shall be signed by voters residing within the district for which the officers are to be elected, and that each signer shall add to his signature his place of residence, and shall make an oath that he is a voter in such district and has truly stated his residence. Held, that such voter must not only sign the certificate, but must also sign the oath, and that a failure so to do invalidates the certificate.—P. 9. Cowie, Sec. of State vs. Means, 39 Colo., 1.

2. Where the original certificate of nomination, under Section 6, p. 144, Session Laws 1901, is void because the oath was not signed by the voters, that portion of it assuming to appoint a committee to fill vacancies is likewise void, and such alleged committee has no power to act.—P. 9. Cowie, Sec. of State vs. Means, 39 Colo., 2.

3. Certain alleged certificates of nomination to fill vacancies were handed for filing to the secretary of state, on board a train bound for another city, at the union depot in Denver, at 7 p. m., October 27, preceding the general election to be held on November 6. Held, that such action did not constitute a legal filing of such certificates, as of that date, it being necessary to tender such certificates for filing at the office of the secretary of state to some person in charge during business hours, and at a time not less than eight days before election.—P. 10. Cowie, Secretary of State vs. Means, 39 Colo., 2.

**2155. Contents of certificates of nomination.**—No certificate of nomination shall contain the names of more candidates for any office than there are offices to fill, but if any such certificate does contain the names of more candidates than there are offices to fill, only those names which come first in order on such certificate, and are equally numbered with the number of offices to be filled, shall be taken as nominated, and all the rest of such names shall be treated as surplusage. No person shall sign more than one certificate of nomination for any office. [L. '91, p. 145, §7.]

**2156. Preservation of certificates.**—The secretary of state shall cause to be preserved in his office, for the period of two years, all certificates of nomination filed therein under the provisions of this act; and each county clerk or city clerk shall cause to be preserved in his office, for a like period, all certificates of nomination filed therein. All such certificates shall be open to public inspection, under proper regulations, to be made by the officers with whom the same are filed. [L. '91, p. 145, §8.]

**2157. Filing of certificates of nomination.**—When nominations are made by a convention or committee, as provided for in section four of this act, the certificates of nomination to be filed with the secretary of state shall be filed not more than sixty nor less than thirty days before the day of election and the certificates of nomination herein directed to be filed with the county clerk shall be filed not more than sixty, nor less than fifteen days before election; and the certificates of nomination herein directed to be filed with the city clerk shall be filed not more than thirty nor less than fifteen days before the day of election. Certificates of nomination, otherwise than by a convention or committee, made according to the provisions of section six of this act, shall, when required to be filed with the secretary of state, be filed not more than forty nor less than thirty days before election; and when required to be filed with

the county clerk, shall be filed not more than thirty nor less than fifteen days before election; and when required to be filed with the city clerk, shall be filed not more than thirty nor less than fifteen days before election. All certificates of nominations made by conventions shall be filed in the proper offices, not later than five days after the date of such nominations. [L. '91, p. 146, §9.]

[Section 4 referred to is section 2152.]

[Section 6 referred to is section 2154.]

**2153. Certifying nominations to county clerks.**—The secretary of state, shall, immediately upon the expiration of the time within which certificates of nomination may be filed with him and corrections thereof made, certify to the county clerk of each county, within which any of the voters may by law vote for the candidates named in the certificate, the name and description of each such candidate, together with the other details mentioned in such certificate of nomination so filed with the secretary of state. [L. '91, p. 146, §10.]

**2159. Publication and posting of nominations.**—For at least six successive days before an election to fill any public office, the county clerk of each county or the city or town clerk of each town shall give notice in not less than two nor more than four newspapers published within the county, a list of all nominations to offices certified to him under the provisions of this act. Such publications shall contain the name and residence, and, if in a city, the street, number of residence and place of business, if any, and the party or other designation of each candidate, and shall be, as far as possible, in the form in which such nominations shall appear upon the official ballots. In the case of municipal elections such publication of the names of candidates for municipal offices shall be made in newspapers which are published within the municipality where the election is to be held. One of such publications shall be made in a newspaper which advocates the principles of the political party that at the last preceding state election cast the largest number of votes, and another of such publications shall be made in the newspaper which advocates the principles of the political party which at the last preceding state election cast the next largest number of votes. The county clerk, in selecting the respective papers for such publication, shall select those which, according to the best information he can obtain, have the largest circulation within the county. For the purpose of ascertaining which paper published in said county has the largest circulation, the county clerk may require a sworn certificate showing the number of bona fide subscribers to each newspaper. In making additional publications county clerks shall keep in view the object of giving information as far as possible to the largest number of voters of all political parties, and in no event shall such additional publication be made in two newspapers representing the same political party. The county clerk shall make such publications daily in counties where daily newspapers are published, but if there be no daily newspaper published within the county, one publication in each newspaper shall be sufficient. Should the county clerk find it impracticable to make the publication six days before election day in counties where no daily paper is printed, he shall make the same at the earliest possible day thereafter, and one of the publications in any newspaper shall be in the last issue thereof before the day of election. In counties where there are no daily papers the county clerk shall make the publication at the earliest possible day after the filing in his office of such certificates of nomination, and in counties where it is impracticable to make such publication in newspapers advocating opposite political principles such publication shall be made in the newspaper having the largest circulation, and in counties where there are no newspapers published the county clerk shall post double the number of printed lists and such additional lists shall be posted in other conspicuous places in different portions of the county. [L. '91, p. 146, §11.]

1. It seems that the county clerk should prescribe the form in which the list of nominations for an impending election shall be published.—(466)

But under the Statute Laws 1891, 146, Section 11; 3 Mills' Stats. (Rev. Sup.) Section 1625k; Rev. Stats., Section 2159; Laws 1894, c. 7, Section 2; 3 Mills' Stats. (Rev. Sup.), Section 1625r; Rev. Stats., Section 2235) the list in some cases must necessarily be printed in double columns. In such case the printer is not to be denied compensation for the publication, by reason of the supposed non-observance of the clerk's directions to print in another form.—(467). Commissioners of Montezuma County vs. Frederick, 50 Colo., 464.

2. The publication of the list of nominations is county printing; and the contract of the publisher of a newspaper for the legal printing of a county may be so framed as to include the printing of such list, in case the clerk should select such newspaper for its publication.—(468). Commissioners of Montezuma County vs. Frederick, 50 Colo., 464.

3. The statute directing the county clerk to publish, prior to every election, the list of all nominations (Rev. Stat. Sec. 2159) prescribes a public duty, for the benefit of the public only. It imposes upon the clerk no duty towards the publisher of any newspaper, and his refusal to make such publication in the only daily newspaper of the county affords no action to such publisher. People vs. Hoag, 54 Colo., 542.

4. This section is referred to in Capps vs. Krier, 25 Colo., 474, 479.

**2160. Lists of nominations sent to precinct officers—Lists posted.**—The county clerk of each county and the city clerk of each city and the town clerk of each town shall, at least six days before election day, send to the election officers in each election precinct in such county, city or town at least five and not more than ten copies, for each election precinct, of printed lists containing the name and residence, and if in a city, the street, number of residence and place of business, if any, and party or other designation of each candidate nominated, as hereinbefore provided, to be voted for by the voters of the respective counties, cities or towns. Such lists shall, at least three days before the day of election, be conspicuously posted by such election officers in one or more public places in each election precinct of the county, city or town, one or more of which shall be duly placed where such election is to be held. [L. '91, p. 148, §12.]

## **E. REGISTRATION OF ELECTORS.**

1. IN OUTLYING PRECINCTS AND TOWNS OF LESS THAN 2,000 POPULATION.—2164-2173.

2. IN CITIES OF 2,000 TO 5,000 POPULATION.

3. CERTAIN SPECIAL AND GENERAL CITY ELECTIONS.

4. IN CITIES OF MORE THAN 5,000 POPULATION.

### **1. IN OUTLYING PRECINCTS AND TOWNS OF LESS THAN 2,000 POPULATION.**

Section  
2164. Secretary of state furnish books and blanks.  
2165. County clerk furnish blank registries.  
2166. Who may be registered.  
2167. Judges meet to make registration—Time allowed.  
2168. Form of lists—Copies—Return of lists.

Section  
2169. Board of registry meet to revise lists.  
2170. New precincts—Judges—Change of registration.  
2171. Revision of municipal registry lists.  
2172. Registry, how made—Filed with town clerk.  
2173. Return of registries to county clerk.

**2164. Secretary of state furnish books and blanks.**—It shall be the duty of the Secretary of State to make out a complete form of a registry book, alphabetically arranged, with the oath of the registrar in blank, and the requisite blank columns properly headed, and have the same printed, and to send copies thereof to the county clerk of each county in the State, together with a sufficient number of copies of the registry and election laws bound in pamphlet form. [G. S., §1266; G. L., §1042.]

**2165. County clerk furnish blank registries.**—It shall be the duty of the county clerk of each county to furnish annually for the use of the Board of Registry in each precinct or ward in his county, four printed

copies of said blank registries and send them by mail or other safe conveyance to the judges of elections in such wards or precincts at least twenty (20) days prior to the day of the first meeting of the Board of Registry as herein provided. [G. S., §1267; G. L., §1043.]

**2166. Who may be registered—Oath.**—That hereafter the judges of election, when acting as a Board of Registry in cases provided by law, shall not, in any case, allow the name of any person to be placed on the list of registered voters, called the registry of elections, in any ward or voting precinct in the State, unless in the following cases:

*First*—When the person whose name is to be registered, and also the facts of his legal qualifications as a voter in the ward, township or precinct in which such registry is made, shall be known to one or more of the persons acting as such Board of Registry, and the judge or person so acting on such Board of Registry to whom such voter and his legal qualifications are known, shall sign his name on the registry roll or list opposite the name of such voter, and the judge or person acting as a member of such Board of Registry so signing his name opposite the name of such voter shall be deemed and held to have vouched, under oath, that such person so registered is a legal voter within the ward, township or precinct in which such registry is made; and such judge or person acting on such Board of Registry who shall sign his own name as aforesaid, shall be subject to the same liability, in all respects, as a person making affidavit under the provisions of the next following subdivision of this section. But any person claiming the right to be registered as a legal voter in any ward, township or precinct, shall be so registered by the Board of Registry at any session of said board, excepting the last session, held the day preceding the ensuing election; *Provided*, Such persons shall make personal application to so be registered, and take and subscribe before said Board of Registry the following oath [Note: *This form and the form of oath under "second" below are made to correspond to the requirements of Amendment of 1902, Colorado Constitution Article VII, Section 1, and Session Laws of 1903, page 214*]:

I, ....., do solemnly swear (or affirm) that on the date of the next ensuing election I shall be over the age of twenty-one years and shall have resided in the State of Colorado at least twelve months, and in the county at least ninety days preceding the said election (and in the incorporated town of..... at least thirty days), and in precinct..... (or ward.....) at least ten days before the election, and that I am a citizen of the United States and a qualified elector in said precinct.

*Second*—When a legal voter, being registered in such ward, township or precinct, and known as such, by one or more of such judges or persons acting on such Board of Registry, or proven to be such by affidavit of some known legal voter, registered in such ward, township or precinct, in similar form to that herein following, shall make affidavit in substance as follows:

I, ....., do solemnly swear by the everliving God (or affirm) that I am a citizen of the United States and a qualified elector in precinct..... (in ward.....), (in the incorporated town of.....), and in the county of.....; that I am registered from No..... Street, and a resident of that address; that....., whose name I have caused to be placed on the registered list of qualified voters from the same address in this precinct, resides at such address, and has resided in said precinct (or ward) for ten days last past (in said incorporated town for at least thirty days), and in said county at least ninety days, and is a citizen of the United States over the age of twenty-one years and a qualified elector entitled to be registered and to vote from such address in such precinct at the ensuing election.

The blanks therein filled with the proper names, dates, places and numbers, as the case may require, and such affidavit shall show that the

person so offering to vote is, or will be by the day of election next ensuing, in all respects a legal voter in such ward or precinct. [L. '89, p. 154, §1; amending G. S., §1274; G. L., §1051.]

[The above section is amended as to qualifications of elector by section 2146.]

**2167. Judges meet to make registration—Time allowed.**—The judges of elections in the several wards and election precincts shall meet on Tuesday, three weeks before the day upon which any general election shall by law be appointed to be held, at nine o'clock a. m. of said day, and proceed to make a registry list, as hereinafter prescribed, of the names of all persons qualified and entitled to vote at the ensuing election in the ward or precinct in which they are judges, which list, when completed and revised, as hereinafter provided, shall constitute the registry of electors of said precinct. Whenever, at the last election in any precinct, prior to the meeting of such Board of Registry, the number of votes cast in such precinct shall have exceeded three hundred, the said board may continue in session for the purpose of making such registry, five days if necessary; when the number of votes cast in such precinct shall have exceeded one hundred, the said board may continue in session, for the purpose of making such registry, three days if necessary, otherwise but one day. [G. S., §1259; G. L., §1035.]

[In case of new precincts and divisions, see section 2170.]

In connection with the above section see also Section 39, page 105.

**2168. Form of lists—Copies—Return of lists.**—The list so made shall contain the names of the qualified electors of the ward or voting precinct in which the same is made, alphabetically arranged, according to surnames, so as to show in one column the name of each elector at full length, and in another the place of his residence, designated by the number or name of street, and number of house, if known, or the section or other subdivision thereof, according to United States surveys, on which such elector shall reside, if he reside on surveyed lands, and if not, such description as will best locate his residence. Said board shall enter on said list the names of all legally qualified electors in such ward or precinct, or of those who will become such, by lapse of time, on or before the next ensuing day of such general election, as aforesaid, in all cases in which such entry can be made consistent with the provisions hereinafter contained. For the convenience of the said board they are authorized to take from the office of the county clerk the poll list of such ward or precinct, filed by the judges of the last preceding election in such precinct. Said board shall make four copies of such registry list when revised and completed, which list they shall certify to be correct, and forward one copy to the office of the county clerk, and retain two copies for use on election day; and one copy they shall, within two days from the completion thereof, post in some conspicuous place where the last election was held in such precinct, and so as to be accessible and convenient to any elector who may desire to inspect the same. The Board of County Commissioners may cause to be printed and published any such registry list when completed, at an expense not exceeding two cents per name thereon. [G. S., §1260; G. L., §1036.]

**2169. Board of registry meet to revise lists.**—Every Board of Registry shall meet on the Tuesday of the week preceding any and every general election, at the place designated for holding such election, for the purpose of revising, correcting and completing such registry list, and in all cases they shall meet at nine o'clock a. m., and remain in session until six o'clock of said day. Said Boards of Registry shall meet at the place designated for holding such election, on the day preceding the election, at nine o'clock a. m., and remain in session until six o'clock p. m. of the same day, at which time any elector whose name is not on the revised registry list may have his name placed thereon; *Provided*, He shall take and subscribe to the oath prescribed in section forty of this act, and

shall prove by the oath of two registered electors of the precinct (or ward) that such person has been a resident of the precinct ten days, of the county thirty days, and of the State six months next preceding the day of election, and that they verily believe him to be a qualified elector. Said oaths shall be taken and subscribed to in the presence of the Board of Registry, either of whom may administer the oath; and said oaths shall be preserved and filed in the office of the county clerk, together with the poll lists of said election. The name of such person and his residence, as given by him, shall be entered upon the registry list, and opposite the name of such person shall be marked the word "affidavit" and the names of the witnesses. [G. S., §1261; G. L., §1037.]

[Section 40 above referred to is found as amended as section 2254.]

**2170. New precincts—Judges—Change of registration.**—In case any new election precinct shall be formed, the county commissioners shall immediately appoint judges of election therein; and in the case of the division of any voting precinct, the names of all voters residing in that part of any precinct stricken off shall be stricken from the registry list in the voting precinct from which such part shall have been stricken, and shall be inserted in the registry lists of the precincts to which such part may have been attached, at the first registration of voters' names in each such precinct respectively. [G. S., §1273; G. L., §1050.]

**2171. Revision of municipal registry lists.**—The persons appointed judges of election in every incorporated town or city, hereafter, shall meet on Tuesday of the week preceding each municipal election in town or city in which they are such judges, in the several precincts, at the place of holding municipal elections therein, for the purpose of revising, correcting and completing the annual registry in this act required to be made, and for that purpose they are authorized to take from the office of the county clerk the last annual registry of electors of the wards or precincts, including the town or city in which they are appointed judges. [G. S., §1268; G. L., §1044.]

**2172. Registry how made—Filed with town clerk.**—The said last mentioned registrars shall, in all respects, proceed in the revising and correcting of their respective wards or precincts as is hereinbefore provided for in the revision and correcting of the annual registries except that the registry list, as so revised and corrected by such city or town registrars, shall be filed with the city or town clerk of the proper city or town. [G. S., §1269; G. L., §1045.]

**2173. Return of registries to county clerk.**—All registries taken from the county clerk's office under the provisions of the last section shall be returned to the county clerk within ten (10) days after the day of registry for which they may be taken out of the same. [G. S., §1270; G. L., §1046.]

## 2. IN CITIES OF 2,000 TO 5,000 POPULATION.

**Section 1. Registration compulsory except for school elections in cities with population of 2,000 to 5,000 inhabitants.**—No person shall hereafter be permitted to vote at any primary, or general or special election provided for by law, whether national, state, district, county or city, for candidates for office, or upon constitutional or charter amendments, or public franchises or the issuance of bonds, or other questions, matter or measure submitted to the vote of the qualified electors, held in any election precinct included wholly or in part within the limits of cities with a greater population than 2,000 inhabitants, and not exceeding 5,000 inhabitants, without first having been registered within the time and in the manner and form required by the provisions of this act; *Provided*, That this act shall not apply to elections concerning schools.

**Sec. 2. Definition of words and phrases.**—The words and phrases of this act, unless same is inconsistent with the context, shall be construed as follows:

(a) The words "Registration Committee" to mean the three persons provided to be appointed by this act; a "majority" of the registration committee to mean two members thereof.

(b) The words "County Clerk" to mean the County Clerk and Recorder of each county.

(c) The population of the cities shall be determined by the latest federal census.

(d) The words "County Commissioners" to mean the Board of County Commissioners of each county.

(e) In computing time for any act to be done before any election, as provided hereunder, the first day shall be included, and the last, to-wit, election day, shall be excluded. If the time for any act to be done, as provided herein, shall fall on Sunday or a legal holiday, such act shall be done upon the day following such Sunday or legal holiday, and such Sunday or legal holiday shall not be included in any given number of days designated as the time in which any act is to be done or performed, as provided in this act.

(f) The words "election," or "election day," mean any election within the provisions of this act, other than a primary.

(g) The words "preceding election" mean the last election except a primary, held for candidates for office which was within the provisions of this act and irrespective of whether it was a similar election or not.

(h) The words "general election" mean any general state, county or city election for the election of officers, but not a primary.

**Sec. 3. County Commissioners group election precincts into registration districts and appoint registration committee.**—The Board of County Commissioners of any county wherein any such city is situate, is hereby directed to group into Registration Districts a number of election precincts not less than three nor more than twelve in each Registration District. In each Registration District there shall be appointed, as herein provided, three qualified electors of said district to be called the "Registration Committee."

**Sec. 4. County Clerk appoint Registration Committee.**—The Registration Committee shall, in accordance with the provisions hereof, be appointed by the County Clerk for each of the said Registration Districts in the county, on the first Tuesday in July, 1918, and upon the same day every two years thereafter, in the manner herein provided, and the County Clerk shall make and file in his office a list of each and all persons so appointed, their names, business, postoffice and residence addresses.

**Sec. 5. County chairman certify list of electors for Registration Committee.**—If no county chairman precinct committeeman submit list.—Between the first day of May and the third Tuesday in June, 1918, and during said period every two years thereafter, the County Chairman of each of the two political parties in each county having cast the highest and the next highest number of votes for Governor at the last general election for state officers, shall, in accordance with the provisions hereof, certify to the County Clerk the names of not less than three nor more than six qualified electors in each of the Registration Districts in such city, together with the postoffice, residence and business address of each of such persons so certified. Each chairman shall also certify that at least two of the persons named are willing to serve upon the Registration Committee in their Registration Districts respectively. Each County Chairman shall designate the order of his choice of such names for service upon the Registration Committee in each district, and the persons so first designated by the County Chairman shall be chosen

by the County Clerk as members of the Registration Committee. The third member of said Registration Committee shall be chosen by the said County Clerk from the list of names submitted to him by the respective chairmen from one of the lists. If for any reason any one selected to act upon the Registration Committee refuses, fails or is unable to act at any time within forty-eight hours before the date of registration for any election or primary, it shall be the duty of such member of the committee, or any member of the committee, to notify the County Clerk, whereupon the County Clerk shall forthwith, by the most speedy and convenient method, notify the County Chairman of the political party to which such member belongs, whereupon it shall be the duty of the County Chairman of such political party forthwith to designate to the County Clerk the name of some other elector in such Registration District to act in the place of such person. If it is impossible to notify such County Chairman of any such vacancy in the committee, during the time of registration two members of such committee shall perform the duties of such committee until such vacancy is filled as provided herein. If there shall not be a majority of such committee remaining, in such contingency the County Clerk shall designate to act upon such committee, pending the filling of such vacancy as provided herein, some qualified elector in said Registration District belonging to the party entitled to such representation, so as to constitute a majority of the Registration Committee; *Provided, however,* That the County Clerk must designate some person who was originally named by the County Chairman in the list submitted as herein provided, if any such person be willing to act. If there be no County Chairman in any county, so that there can be no specific compliance with the provisions of this act, as to appointment of Registration Committees, the County Clerk shall make such appointments as near in compliance with the intention of this act as possible, obtaining such lists of names from Precinct Committeemen of such party, if any, and if not, then selecting representatives of such political organizations as may be entitled to representation on said committees.

**Sec. 6. County Clerk issue certificate of appointment.**—Within five days after the time provided herein for the designation and appointment by the County Clerk of the members of such Registration Committee, it shall be the duty of the County Clerk to issue three certificates, under his official seal, certifying to the appointment of such committees in the district as provided herein. Such certificates shall contain the name, business, postoffice and residence address of the members of such committee in each registration district, with a statement under the seal of the Clerk that they were selected by him in accordance with the provisions of this act, one of which certificates shall be mailed by the County Clerk to each of the members of such committee, addressed to his postoffice address. It shall also be the duty of the County Clerk within the said five days to transmit by mail to each of the respective County Chairmen of the two principal political parties aforesaid, a true, exact and certified copy of the list of members of the Registration Committee appointed as herein provided. The original of such lists, on file in the office of the County Clerk, and other registration lists of names and election records, shall be public records, and subject to inspection and examination, during office hours, by any elector of the state, and to the right to make copies thereof.

**Sec. 7. Form of oath of Registration Committee—Compensation—Clerks—Compensation.**—With the certificates transmitted or delivered by the County Clerk to the members of the Registration Committee in the Registration Districts respectively, there shall be enclosed the form of oath hereinafter set forth, which shall be filled out and signed by each member of such committee, and returned and filed in the office of the County Clerk within five days after the date of receipt of such form of oath by said Registration Committee, and it shall be a public record.

The oath to be taken and subscribed by the members of the Registration Committee shall be substantially as follows:

I, ....., do solemnly swear (or affirm) that I am a citizen of the United States and the State of Colorado, of the County of....., City of.....; that I have resided within the limits of the Registration District for which I have been appointed for at least six months last past; that I am a bona fide member of the.....party; that I will faithfully perform the duties required of a member of the Registration Committee in the City of.....County, Colorado, according to law; that I will not wrongfully omit from registration the name of any qualified elector; and that I will not knowingly register any one who is not legally entitled to register, so help me God.

The oath provided in this act shall be taken before any person authorized to administer oaths. No person shall be qualified as a member of such Registration Committee except in case of vacancy within forty-eight hours before date of registration, or as otherwise provided in this act, until such oath has been duly subscribed, sworn to or affirmed, and filed as herein provided. If any person selected to act upon the Registration Committee shall fail to subscribe, swear to or affirm and file such oath or affirmation as herein provided, within five days from the time of his appointment, the County Clerk shall forthwith notify the County Chairman of the political party who may have designated, or who may have been entitled to designate such member of the committee, and upon the failure of such person to comply with this section within forty-eight hours thereafter, such failure shall constitute a vacancy. In the case of a person properly designated as Registration Committeeman as herein provided, or appointed to fill a vacancy where no person authorized to administer oaths is available, it shall be deemed sufficient for the different Registration Committeemen to administer the required oath, one to another.

Each member of the Registration Committee shall receive as compensation for his services the sum of \$3.50 per day for each day actually and necessarily employed in the performance of his duties. Necessary clerks employed by the Registration Committee in making copies of lists of registered voters, as herein provided, shall receive as compensation for their services the sum of \$3 per day.

**Sec. 8. Removal of member of Committee—Neglect of duty—Court proceedings.**—Any member of the Registration Committee may be removed in either of the following ways:

(a) Upon the filing of a statement with the County Clerk by the County Chairman of the political party in whose behalf said member was appointed, that after investigation he is of the opinion that his party is not faithfully and fairly represented by said committeeman. Upon the filing of said statement it shall be the duty of the County Clerk to remove such committeeman and forthwith to notify such committeeman of his removal, and the cause thereof; whereupon his successor shall be forthwith appointed as in other cases.

(b) If any member of such Registration Committee has neglected his duty in attending to such registration, or has committed, encouraged or connived at any frauds in connection therewith, or has violated any of the election or primary election laws, or has knowingly permitted others to do so, or has been convicted of any crime, or has violated the oath provided for herein, or has wrongfully hampered or interfered or tends to interfere with the due and regular performance of the duties of the Registration Committee, or any member thereof, or committed any other act which interferes or tends to interfere with carrying out the purposes of this act, to provide a fair and honest registration and election or primary election, or if the appointment of any member is not made in accordance with the provisions of this act, such member

may be removed from said committee in the following manner: A brief petition by the person making such charge shall be filed in the District or County Court of the county at any time, setting up in brief and concise language the facts constituting the cause for the removal of such member of the committee; whereupon the court shall issue a citation to such Registration Committeeman, directing him to appear at a time within twenty-four hours thereafter, to answer such petition, if he desires so to do. The court shall proceed summarily to hear and finally dispose of such petition, and within forty-eight hours of the time of the filing of the answer may hear evidence in relation thereto. If the court shall decide that such Registration Committeeman ought to be removed, for any cause stated in the petition, it shall be so ordered, and the clerk of such court shall notify the County Clerk thereof forthwith, whereupon the Chairman and County Clerk shall forthwith fill the vacancy as provided herein for original appointments upon such committee. Such petition shall be verified, but the verification may be upon information and belief. Any evidence given by any such accused Registration Committeeman or a witness for petitioner at such hearing, or the result thereof, shall not be used against him in civil, criminal or other proceedings.

(c) Upon the failure or neglect of the members of such Registration Committee, or a majority thereof, to make the canvass and return the same to the County Clerk according to law, or to otherwise perform the duties provided by this act to be performed by such Registration Committee and the members thereof, it shall be the duty of any member of such Registration Committee or any County Chairman of a political party organization, or any elector in the Registration District for which such Registration Committee and each member thereof was appointed, having knowledge of such failure or neglect, to cause proper action for removal to be instituted against such member of said committee. It is also the duty of the County Clerk to take prompt and immediate action in all such cases coming to his knowledge. Any vacancies occurring in such Registration Committee for any cause shall be filled in the same manner, and with like effect, as said committee is provided to be originally constituted and appointed. The validity of any part of the registration already completed, or any other acts done or provided herein, if otherwise legally done, shall not be affected by the removal of a member of such committee, but the same shall be in every respect valid and regular, and the successor of any such person removed or retiring from such committee for any cause, shall proceed with such canvass and the other purposes of such committee, with a like power and effect as though originally appointed as a member of such Registration Committee.

**Sec. 9. Clerk deliver copy of registration book to majority of committee.**—One day prior to the beginning of the district registration the County Clerk shall deliver to the majority of the Registration Committee the permanent books containing the names of all those who are legally on the permanent registration book duly certified.

**Sec. 10. Committee meet to register voters—County Commissioners provide rooms—County Clerk publish notice.**—On the third Tuesday preceding the day of each election, and also on the third Tuesday before the day of each primary election, and from day to day thereafter for not less than three nor more than five days in all, and between the hours of noon and nine o'clock p. m. of each such day, the said Registration Committee shall meet for the purpose of registering duly qualified electors in each of the several precincts of their district. The County Commissioners shall provide a suitable room in each district and all necessary stationery and appurtenances for the use of said Registration Committee. The County Clerk shall, at least two weeks before the date of such registration, give public notice by publication in at least two issues of at least two newspapers belonging to different political parties, of the names of such Registration Committee, and the

time and particular place in the district where such registration shall be carried on.

**Sec. 11. Mode of registration.**—Said Registration Committee shall proceed to complete said registration list in accordance with the provisions of this act, it being the purpose and intent of this act that any elector who has once been registered shall not have to again register, for any primary or other election, unless he shall have failed to vote at the preceding general election, and at such times they shall place on the registration books the names of all qualified electors of their precinct who are not already on the registration books, after the following manner:

First: All who shall present themselves in person for registration and take the form of oath herein provided for, and comply with the provisions of this section respecting registration. The form of oath to be so taken shall be as follows, to-wit:

I, ....., do solemnly swear (or affirm) that at the date of the next ensuing election I shall be of the age of 21 years or over and shall have resided in the State of Colorado at least twelve months, and in the county at least ninety days preceding the said election, and in precinct.....at least ten days before the election, and that I am a citizen of the United States, and a qualified elector in said precinct.

Second: Any elector who is already registered, whether by virtue of having voted at the preceding election, or has appeared in person and registered at the time the Registration Committee is sitting, or who has previously been registered at the office of the County Clerk, and who is personally known to the Registration Committee, may register any person or persons to the number of not more than three, or any member of his family, including servants, to any number thereof, who reside and have resided at the same address for at least ninety days last past, by signing such name or names on the list, and thereafter signing his own name as voucher, in the presence of the majority of the Registration Committee, and by making oath as follows:

I, ....., do solemnly swear by the everliving God (or affirm) that I am a citizen of the United States, and a qualified elector in Precinct....., in the County of .....; that I am registered from No..... Street, or Section....., Township....., Range....., and a resident of that address; that....., whose names I have caused to be placed on the registered list of qualified voters from the same address in this precinct, reside at such address, and have resided there for ten days last past, and are qualified electors, entitled to be registered and to vote from such address in such precinct, at the ensuing election.

In all cases where electors are permitted to register by vouchers, the person so vouching for them, as far as known by him, shall furnish the information required of such elector, which shall be filled in the blank spaces provided for that purpose in the registration book.

All registration shall be made in ink, and shall be made only in the registration book furnished by the county. Except as herein otherwise provided, each elector registered shall answer the questions concerning all the matter required by Section 12 of this act, and sign his or her name, or if unable to write, make his or her mark, and the answer so made by the elector shall be entered in the registration book by the member of the Registration Committee selected or directed by the committee to make such entries in the proper place, and shall, together with the signature of the elector, be attested by at least one member of the Registration Committee.

**Sec. 12. Schedule of Interrogatories to electors.**—It shall be the duty of each qualified elector to be lawfully registered, except as other-

wise provided herein, to answer concerning the following matters: (1) Name in full. (2) Whether married or single. (3) Place of residence, which if urban or suburban, shall be located according to its street number, or if there be no street number, then by description of the lot or lots, in the block or blocks, in the addition, division or subdivision into which the land upon which the residence is located is divided; in all other cases the residence shall be located by the section or sections or subdivision thereof, in the township and range, as established and numbered by the United States government survey. (4) Whether owner of, tenant of, employe of or lodger with occupant of residence. If the voter is a lodger in any rooming house or hotel, the number of the floor and the number of the room shall be given and stated in the registration book. (5) Whether a native born or naturalized citizen of the United States. If a naturalized citizen, the applicant shall state how naturalized, whether by naturalization of self, parents, or otherwise; applicant shall state, as near as may be to his best knowledge, information and belief, when self, parents, or if female, when husband was naturalized, the place and time of naturalization, and by what court naturalization papers were granted. (6) Description of his person, consisting of his height, sex, age, complexion, color of eyes, and any other physical features by which he may be readily identified. (7) His profession, business or employment. (8) His postoffice address.

It shall only be necessary for a female voter to state that she is twenty-one years of age or over, in answer to all questions relating to her age.

**Sec. 13. Close of registration.**—All persons in the registration place at the hour of closing the registration shall be allowed to complete their registration, and the registration lists shall be kept open after the hour of closing only long enough to allow those actually present at the hour of closing to complete their registration.

**Sec. 14. Registration list contain names of electors, etc.**—The registration lists so made shall contain the names of the qualified electors of the voting precinct in which the same are made, alphabetically arranged according to the surnames, so as to show in one column the name of each elector at full length, and in another place of his residence, designated by the name or number of the street, and the number of the house, if numbered, and if not, the section or other subdivision thereof, according to the United States Surveys, on which such elector shall reside, if he resides on surveyed land, and if not, such description as will best locate his residence.

**Sec. 15. Return list to County Clerk—Posting—Clerk deliver copies to chairman.**—Upon completion of such list of registered voters, the Registration Committee shall forthwith, and not later than two days after the last day of district registration, deliver the same to the County Clerk. They shall also make four copies of the names and addresses of the registered voters, three of which they shall send to the County Clerk with the registration book. The other shall, not later than two days after the last day of district registration, be placed in some conspicuous place as near as practical and convenient to the polling place to be used at the ensuing election, so as to be accessible and convenient to any elector who may desire to inspect the same. Said Committee may employ clerks to assist in preparing the copies of names and addresses of registered voters. It shall be the duty of the County Clerk, upon receipt of the list of names and addresses of the registered voters in the various precincts from the Registration Committee, to forthwith and within twenty-four hours deliver one of said copies to each County Chairman of the two political parties having cast the largest and next largest vote for Governor at the last preceding election, taking his receipt therefor, and retaining the other copy of the list of names and addresses for correction. The clerk shall correct the retained list of names and

addresses received from the Registration Committee in accordance with the original registration book, as it is on the ninth day preceding the election, and forthwith send the same to the member of the Registration Committee representing the political party that cast the second highest vote for Governor at the next preceding election. It shall be the duty of such member of the Registration Committee, forthwith, at least five days preceding the ensuing election, to post the same in the place and stead of the list of names provided to be posted, after the completion of district registration, which list shall be kept posted until after the day of election.

**Sec. 16. Change of residence.**—Any qualified elector who has been registered, and who, subsequent thereto, shall have removed from the precinct in which he is registered to some other precinct may appear before the County Clerk at any time within a period of not less than five days prior to the day of any election, and upon making oath as to his present residence in said precinct, said County Clerk shall draw a red line through the registration of said voter, making note as follows, in column for "remarks": "Changed....., 19...., to precinct .....ward (or district).....," and shall register in red ink such elector in the registration book for the precinct to which he has moved. Changes from one number in the precinct to another number in the same precinct may be made in the same manner, or may be made on election or primary day by the judges. The County Clerk or deputy making such change shall sign his or her name in the column for the signature of the Registration Committee.

**Sec. 17. Purging the list—Clerk make original registration.**—On June first preceding any general election the County Clerk shall compare the above lists of voters who are shown thereby to have voted at the last preceding general election with the original registration for such election, and strike from such original registration the names of all persons who failed to vote at such election, by drawing a red line through their names, and writing thereafter, in the column headed "remarks," the words, "Failed to vote." The registration lists as thus purged shall be the registration for the next ensuing primary election, with the names of such additional persons added thereto as shall, after commission of said purging, have appeared personally before the County Clerk for original registration or change of registration, not more than thirty nor less than three days before any primary, and complied with the requirements of law respecting registration before the Registration Committee, and said Clerk shall register any qualified elector who shall so appear in person for registration.

**Sec. 18. Petition in court to strike fraudulent registration—Clerk of court issue subpoena to committee—Mail notice to persons asked to be stricken—Procedure in court.**—(a) At any time not more than twenty-five nor less than eighteen days before any election or primary election, any qualified voter may file in the County or District Court a petition, which shall be under oath, alleging that the petitioner has made careful investigation, and believes that names registered by the Registration Committee are illegally or fraudulently registered in certain precincts, which shall be stated. The petition shall set forth consecutively and in alphabetical order each of such names, with the address given in the registration book in each precinct, and the names of the Registration Committee in such precinct. Such petition shall state briefly the facts upon which such charge of illegality or fraud is made. The verification may be upon information and belief. As soon as possible, and within twenty-four hours after the filing of such petition, the clerk of the court shall mail to each member of the Registration Committee in such precinct a subpoena in the form following, and shall mail to each name and address alleged therein to be illegal or fraudulent, a notice of the filing of such petition and the time of hearing the same, which shall be not

less than three nor more than five days thereafter. The subpoena to the members of the Registration Committee shall be substantially as follows:

"You are notified that on the .....day of..... filed in the....., Court a petition asking for the purging of certain names from the registration list in precinct....., ward....., and that it appears from the record that such registration was made by you, and that you have represented it to be legal and correct. The petition charges that the list of names attached hereto in said precinct registered by you are illegal and fraudulent.

You are notified to appear and answer the charges of said petition at the hour of.....o'clock....M, on the.....day of ..... 19...., at the.....Court, at the court house, in the city of.....

You are further notified that failure to appear, without good or sufficient excuse renders you liable for contempt of court and punishment accordingly, as provided by the registration law.

.....  
Clerk."

(Attach list of names and addresses in alphabetical order.)

The subpoena shall be issued on the court's motion and the county shall pay the witness and mileage fees.

The notice mailed to the name and address of each person in such precinct mentioned in such petition as being illegally or fraudulently registered shall be substantially as follows:

"You are notified that..... (stating the official position of such petition, if the petitioner should be a County Chairman, member of Registration Committee, or otherwise), has filed a petition in this court, asking for the purging of the registration in Precinct....., Ward.....

It is charged in such petition that your name appearing upon the registration lists of such precinct was illegally or fraudulently registered.

You are notified that said cause will be heard at the..... Court, at the court house in the city of....., at the hour of .....o'clock....M, on the.....day of ..... 19.... You are notified that your name will be stricken from such registration list if it shall be proven by the evidence at such hearing that you are not entitled to registration.

.....  
Clerk."

(b) It shall be the duty of any person filing a petition as herein provided, for the purging of registration, to file therewith two duplicate copies of the same, and it shall be the duty of the clerk of the court to immediately deliver or mail to each of the two County Chairmen one such duplicate copy, together with the notice stating that the original of such copy has been duly filed in his office, stating the time of such filing and the time and place when the cause is set for hearing.

(c) Any person whose name is charged to be illegally or fraudulently registered, who shall appear in person and make oath that he or she is a legally qualified elector to vote in such precinct, or any person not present, whom any one member of such Registration Committee shall make oath in court is a legally qualified elector in said precinct, shall, for the purpose of such hearing, be conclusively entitled to have his name remain upon such registration list. Any person making such oath in open court shall be subject to cross-examination by the petitioner or any person representing the petitioner at such hearing. If any person at such hearing shall testify that any one thus retained upon such registration list by such oath or affirmation is not a qualified elector in such

precinct, a record of the fact shall be made and transmitted by the Clerk of the Court to the District Attorney.

(d) In all cases, except those which shall be conclusively entitled to remain upon the registration lists by reason of the oath or affirmation provided in the last paragraph of this section, the court shall investigate summarily and within forty-eight hours after the close of the evidence determine whether or not such charges are sustained; *Provided*, only competent legal evidence shall be received on such hearing or considered by the court, and no name registered in accordance with law shall be struck from the registration unless it shall be so proved that the challenged person is not a qualified voter in the precinct wherein he is registered. No presumption shall be indulged in against any person whose registration is challenged merely because of the failure of such person to attend the hearing. At the close of such hearing the court shall announce the names in such petition as to which such charges have been sustained, and shall direct the clerk of the court to forthwith certify to the County Clerk the lists of names of such persons, with their addresses in each precinct and ward, arranged alphabetically and according to precincts. It shall thereupon be the duty of the County Clerk, upon the receipt of said list from the said Court, to forthwith strike such names from the registration lists in the proper precinct by ruling a red line through such name, with the notation in the column for "remarks," that such name or names were stricken out in pursuance of the order of such court, giving the date of such order.

(e) Any person who shall without previous investigation, or without reasonable cause or excuse, wilfully charge in any petition filed in such court that the name of any person upon such registration book or lists is illegal or fraudulent, or who shall not file such petition in good faith, or who shall file the same for the purpose of hindering or delaying any registration or any election, and not for the purpose of purging such registration lists of illegal or fraudulent names, shall be deemed guilty of a misdemeanor, and also of contempt of court.

Any member of the Registration Committee, or any person whose name is charged to be illegally or fraudulently registered, shall have the right to charge by written affidavit filed in such cause, which affidavit may be upon information and belief, that the person filing such petition is not acting in good faith, but has been guilty of any of the acts of improper motives mentioned herein, and if, upon hearing, which shall be at the same time the case is heard on the petition, any of such charges are, in the opinion of the court, sustained such persons shall be guilty of a misdemeanor and of contempt of court.

(f) All hearings of any such petition shall be summary, final and not the subject of delay.

(g) No other pleadings than the said petition and affidavit shall be permitted to be filed in any such cause.

(h) The court shall have the power to subpoena any person or persons as witnesses at such hearing and make any necessary investigation to ascertain the truth of any of the charges in such petition or affidavits, provided the method of such investigation shall not cause unnecessary delay or interfere with the final position of such cause within the time provided for herein.

Persons subpoenaed shall be paid by the county the usual witness and mileage fees allowed witnesses for the people in criminal cases in courts of record. The decision of the court in any such case shall be final, and no appeal shall lie to any other court, except that the Supreme Court may, in the exercise of its discretion, review any such proceedings in a summary way. The penalty for tampering with or destroying such list shall be printed in a conspicuous place on the outside thereof, and the Registration Committee shall adopt reasonable methods for the posting of such list so as to protect it from the weather or theft, and make it accessible to the public at reasonable times, and they shall sign their names and addresses on the cover of such list.

**Sec. 19. Sworn certificate of Registration Committee.**—When any registration book or copy thereof is delivered to the County Clerk under any provision of this act, there shall be attached thereto a certificate signed and sworn to by the members of the Registration Committee making the registration contained in such book, certifying substantially as follows:

"We, the legally appointed committee for the registration of electors for the Registration District composed of Precincts..... do solemnly swear, in the presence of the everliving God (or affirm) that we have diligently performed the duties required of us by law in completing the registration of voters for said precincts, and have herein entered the names of electors in accordance with the provisions of the statutes of the State relating to the registration of voters, and that as such Registration Committee for the purpose mentioned, we did sit at ....., in said Registration District, between the hours of noon and nine o'clock P. M. on the.....days of ....., for the purpose of registering electors in said precincts, and we have in all respects complied with the law in making the registration of said precincts up to and including the day of this certificate, and we have not knowingly permitted any illegal or fraudulent registration in said precinct.

.....  
 .....  
 .....  
 Committee of Registration for Registration District  
 composed of Precincts.....

Subscribed and sworn to before me this.....  
 day of....., A. D. 19.....

**Sec. 20. Procedure by County Clerk if new precinct formed or precinct divided.**—In case any new election precinct shall be formed, or in case of the division of any voting precinct, the names of all voters residing in that part of any precinct detached shall be forthwith stricken by the County Clerk from the registration list of such precinct, and shall be by him inserted in the registration list of the new precinct, or the precinct to which such part may have been attached, at least ten days prior to the meeting of the registration committee for the ensuing primary or to the fourth Tuesday preceding the general election, as the case may be.

**Sec. 21. Registration by County Clerk.**—In addition to original registration by the Registration Committee, original registration may be made at any time up to within three days of any primary or election, by the County Clerk, upon any qualified elector personally appearing before said County Clerk, together with two vouchers who are duly registered electors of the precinct in which said elector desires to be registered.

**Sec. 22. Compensation of County Clerk.**—The County Clerk of each county shall be authorized to receive from the county the sum of ten cents for the making of each original registration, and ten cents for each change made therein on the application of any qualified voter, in pursuance of the provisions of this act. A fee of ten cents for each name transferred from one precinct registered to another may also be collected from the county by the County Clerk for preparing and completing new registration to conform to the change of boundaries or the establishment of new election precincts.

**Sec. 23. Duty of County Clerk before primary election.**—Duty of election judges.—It shall be the duty of the County Clerk in any county wherein any such city is situate, at least three days before the day of any primary or election therein, to make full and complete certified copies of the registration lists of the qualified voters in their respective election precincts for use in the holding and conducting of such election or primary upon the day thereof, and deciding who shall be entitled to

vote thereat, and to deliver such list to the election judges for the proper precinct one day prior to such election. To each of such copies so delivered to the said election judges it shall be the duty of the County Clerk to attach his certificate, under the seal of his office, setting forth that the said copy contains a full, complete and accurate list of the qualified voters in each such election precinct, as the same appear upon the original registration books on file in his office. It shall be the duty of the board of election judges for each precinct included within any such city for any such election or primary to call in person at the office of the County Clerk one day prior to such election for the purpose of receiving such copy of the registration list. Such registration list shall be furnished to said judges in a sealed envelope, which said envelope shall not be opened until the morning of election day, at the polls, in the presence of the judges. Said copy shall be delivered to two judges, one belonging to the political party which cast the highest number of votes in the last similar election in said county, and the other belonging to the party which cast the next highest number of votes at said election, and both such judges shall receipt to the County Clerk for such copy of the registration lists, and they shall receive mileage for such services at the rate of 10 cents per mile for each mile actually traveled. The County Clerk shall be allowed a fee of ten dollars for each precinct for which he shall furnish such copy of the registration list, to be paid by the county. Any voter whose vote is rejected because of any error in transcribing the official register shall be entitled to vote upon producing to the judges of election a certified copy of his registration, showing his right to vote.

**Sec. 24. County Commissioners furnish supplies.**—The Board of County Commissioners in each county from time to time as may be required by this act, shall provide for all election precincts all necessary supplies and registration books, which shall be of sufficient strength and durability for the registration provided for; such books shall be of convenient size and shape, conforming in the printing and blank spaces to the requirements of this act, and shall be arranged for the registration of names in divisions to be composed of ruled columns with appropriate headings under the information obtained or required by the Registration Committee concerning the proper answers and statements made by each elector in being registered in compliance with the act, shall be recorded. The names of the electors as registered shall be numbered under each division, consecutively from one upwards, and the date of registration shall also be recorded. There shall also be ruled columns under each one of said divisions for the signature of electors for informants as to their qualifications and the name or names of the Registration Committee; also a column with the heading, "Registration Changed From" and sub-headings, "Election Precinct No.....," and "Register No.....," whereunder in all cases of changed registration or change of residence of any elector shall be stated the election precinct and registry number of elector's last registration. There shall also be a ruled column "Remarks," under which shall be briefly noted any important information affecting the registry of the elector.

**Sec. 25. County Commissioners see that supplies are delivered.**—It shall be the duty of the County Commissioners to supply and the County Clerk of each county to see that there is delivered, whenever required for any primary election, for the use of the Registration Committee, all necessary supplies as may be required under the provisions of this act for the registration of voters, and he shall deliver the same to the member or members of the Registration Committee authorized to receive the same at least one day prior to the first meeting of the Registration Committee for making any registration required by this act.

**Sec. 26. County Clerk make rules for delivery and calling for books.**—The County Clerk shall have the right to make any reasonable rules

for calling for the registration books and the delivery thereof, and preserving the same from loss, mutilation and alteration, and may issue written instructions to the various Registration Committees as to the method of entering in their books the names of electors in accordance with the provisions of this act.

**Sec. 27. Permanent registration book filled—Additional book.**—Whenever the permanent registration book for any precinct has been so filled that the same cannot be longer conveniently used for additional registration, an additional permanent registration book may be supplied for said precinct, or the names may be copied by the County Clerk upon a larger book to be provided by the County Commissioners for that purpose.

**Sec. 28. City elections—City Council appoint Registration Committee—Duties of City Clerk.**—In city elections all matters relating thereto and required to be done hereunder, shall be performed by the city officers as now provided by law; the Registration Committee for the city election shall consist of the board of election judges of each precinct, to be appointed by the city council as now provided by law. The said Registration Committee shall meet on the third Tuesday before each primary or election for the purpose of registering electors, and continue in session for at least three days and not more than five days. Changes in registration may be made by said Registration Committee or by the City Clerk, in the same manner as herein provided, by the Registration Committee or the County Clerk, at general elections. All registration books and supplies are to be furnished at the expense of the city and the City Clerk is to be the custodian of all registration books and to have the same powers and duties that are herein conferred upon the County Clerk at general elections. All rules in regard to manner of registering of electors, purging of lists, and challenging of the registration herein shall be applicable to city elections.

**Sec. 29. Chairmen of political parties name watchers.**—The chairmen of the two political parties casting the highest and next highest vote for Governor at the last preceding election may name a watcher at the registration in any Registration District. Each watcher shall have the right at any time to appoint an alternate to take his place, with all the rights and duties of such watcher, to act during such time as such watcher may be absent; and it shall be the duty of the Registration Committee to protect such watchers or their alternates or representatives in all the rights guaranteed them by the statutes of this State. Such watchers must be electors of the Registration District.

**Sec. 30. Violations of act—Misdemeanor.**—Any person who shall violate any of the provisions of this act or in any manner interfere with or impede the due and proper carrying out of the same, whether by act of commission, or by failure to perform any act or duty imposed or required for the proper administration of this act, or who shall knowingly permit or encourage another so to do, shall be deemed guilty of a misdemeanor, and shall, upon conviction, be punished by a fine of not less than \$25 nor more than \$500, or shall be imprisoned in the county jail not less than one month nor more than one year, or any such person may be punished by both such fine and imprisonment.

**Sec. 31. False oath—Guilty of perjury.**—Any person who shall falsely and corruptly make any oath provided for by this act shall be deemed guilty of perjury, and punished accordingly.

**Sec. 32. Act apply only to cities with population 2,000 to 5,000 inhabitants.**—Sections 1 to 31 hereof, both inclusive, shall apply only to election precincts included wholly or in part within the limits of cities with a greater population than 2,000 and not exceeding 5,000 inhabi-

tants. In all other election precincts in this state the registration of electors for general or primary elections shall be made as now provided by law.

**Sec. 33. Liberal construction of act.**—This act shall be liberally construed, so that all qualified electors shall be registered, and that those who are not legal electors may be kept from such registration, and that fraud and corruption in elections may be prevented, and these purposes shall not be defeated by any informality or failure to comply with the provisions of this act as to any notice required by this act.

**Sec. 34. Repeal.**—Chapter. 8 of the Laws of 1894, approved March 2, 1894, and all acts and parts of acts inconsistent with this act, are hereby repealed.

(L. 1917, p. 189.)

### **3. CERTAIN SPECIAL AND GENERAL CITY ELECTIONS.**

**Section 1. Registration in cities over 2,000.**—In all cities having a greater population than two thousand inhabitants no person shall hereafter be permitted to vote at any special election held at a time other than a general election, or at any general city election held between the time of the adoption of a proposal to hold a charter convention under section five of Article XX of the constitution and the time of the adoption of the charter prepared and submitted by such charter convention, or at the first election of officers under such charter, unless such person shall first have been registered as herein provided.

**Sec. 2. New registration provided unless.**—For all such elections no new registration shall be required, except as hereinafter provided, but any qualified elector of any such city whose name is on the registration books used at the then last preceding general election, whether county or municipal, and who still resides at the place designated in his said registration, shall be deemed properly registered for any such election, and additional registration and changes in registration may be made as hereinafter provided.

**Sec. 3. County clerk deliver registration book to committee.**—On the fourteenth day preceding any such election to be held the county clerk of the proper county shall deliver to the registration committee of each election precinct the original book of registration for that precinct as prepared and completed for the then next preceding general election, whether county or municipal, and on the tenth day preceding the election thus to be held, or if that day be a legal holiday or Sunday, then on the succeeding day, the registration committee for each precinct shall sit from nine o'clock a. m., until nine o'clock p. m., at some suitable place to be provided by the county commissioners and centrally located within the precinct as far as practicable, and shall place on the said book of registration, next after the names already thereon, the names of all qualified electors of that precinct who are not registered and who shall present themselves for registration and comply with the requirements prescribed by the general registration laws of this State.

**Sec. 4. Removal before election.**—Any qualified elector whose name appears upon any such book of registration in any such city, but who has removed from the precinct in which he is registered to some other precinct, may appear before the county clerk at any time within five days prior to any such election and, upon making oath in writing as to his then present residence, said county clerk shall draw a red line through the registration of such person, making a note as follows: Changed ..... 19...., to precinct..... ward....., inserting the date and number of precinct and ward

therein, and shall register in red ink such person in the book of registration for the precinct in which such person then resides; and a change of residence within the same precinct may be made in like manner. The county clerk or deputy making such change shall sign his name in the column provided for the signatures of the registration committee, and the person so registered shall also sign his name as in the case of an original registration.

**Sec. 5. Copy of registration posted.**—On the day following the registration day aforesaid the registration committee in each precinct shall make a copy of the entire registration list of that precinct, containing only the name and address of each person appearing thereon, and shall certify the same as being correct and shall post such copy on the outside of said registration place, where it shall remain until after election.

**Sec. 6. Original deliver to county clerk.**—Immediately upon completing such copy said registration committee shall deliver the original book of registration to the county clerk who shall retain the same until the day prior to the election when he shall deliver the same to the judges of election of the proper precinct for their use at such election, properly certified as required by the registration laws of this State to be done in cases of copies, but the county clerk shall not, for any such election, make and furnish any copy of such registration lists to the judges of election nor shall he make any charge for delivering said original book of registration as required herein; but his compensation for all other matters hereby required shall be as fixed by the registration laws of this State.

**Sec. 7. Petition to purge.**—At any time prior to the delivery of the original book of registration to the registration committee of the precinct, as herein provided, a petition for purging the list may be filed as to the registration list appearing therein, at any time prior to the seventh day before election a petition may be filed for purging the list of additional registrations made as herein provided, which petitions and the procedure and relief thereunder shall be the same, as near as may be, as provided in the registration laws of this State. And the registration and election laws of this State shall govern in all matters connected with the making of said registration and the holding of any such election except as herein otherwise provided.

**Sec. 8. Not apply to certain cities.**—The provisions of this act shall not be held to apply to any city operating under special charter under any constitutional provision of the State. [L. '09, pp. 484-5-6 (§§1-8, inclusive).]

#### **4. IN CITIES OF MORE THAN 5,000 POPULATION.**

**Section 1. Registration required as qualification of voter—School elections excepted.**—No person shall hereafter be permitted to vote at any primary, or general or special election provided for by law, whether national, state, district, county, city, city and county, or town, for candidates for office, or upon constitutional or charter amendments, or public franchises or the issuance of bonds, or other questions, matters or measure submitted to the vote of the qualified electors, held in any election precinct included within the limits of cities with a greater population than five thousand inhabitants, without first having been registered within the time and in the manner and form required by the provisions of this act; *Provided*, That this act shall not apply to elections concerning schools.

**Sec. 2. Definition of words and phrases.**—The words and phrases of this act, unless the same be inconsistent with the context, shall be construed as follows:

a. The words, "Registration Committee," and the words, "Judges of Election," to mean the three persons provided to be appointed by this act; a "majority" of the registration committee to mean two members thereof representing opposite political parties.

b. The words, "County Clerk," to mean the County Clerk and Recorder of each county.

c. The word, "City" means also any City and County created by any constitutional amendment, and coming within the provisions of this act.

d. The population of cities shall be determined by the latest federal census.

e. The words, "County Commissioners" mean the board of county commissioners of each county.

f. In computing time for any act to be done before any election, as provided hereunder, the first day shall be included, and the last, to-wit, election day, shall be excluded. If the time for any act to be done, as provided herein, shall fall on Sunday or legal holiday, such act shall be done upon the day following such Sunday or legal holiday, and such Sunday or legal holiday shall not be included in any given number of days designated as the time in which any act is to be done or performed, as provided in this act.

g. The words, "election," or "election day" mean any election within the provisions of this act, other than a primary.

h. The words, "preceding election" mean the last election, except a primary, held for candidates for office which was within the provisions of this act, and irrespective of whether it was a similar election or not.

i. The words, "general election" mean any general state, county or city election for the election of officers, but not a primary.

**Sec. 3. Registration Committee—Form of oath.**—a. The registration of electors in each of the several precincts shall be made by a committee consisting of three qualified electors to be called the "Registration Committee," or by a majority of the registration committee, to be appointed for each of said precincts as herein provided. The registration committee shall also be judges of election at any primary, general or special election next following their appointment and during their term of office.

b. The registration committee shall in accordance with the provisions hereof be appointed by the county clerk for each of the precincts in the county on the first Tuesday in July, 1912, and upon the same day every two years thereafter in the manner herein provided, and the county clerk shall make and file in his office a list of each and all persons so appointed, their names, business, postoffice and residence addresses and precinct and ward.

c. Between the first day of May and the third Tuesday in June, 1912, and during said period every two years thereafter, the county chairman of each of the two political parties in each county having cast the highest number of votes for Governor at the last general election for State officers, shall, in accordance with the provisions hereof, certify to the county clerk the names of not less than three nor more than six qualified electors in each of the precincts in such city, county or city and county, together with the postoffice, residence and business address of each of such persons so certified. Each chairman shall also certify that at least two of the persons named are willing to serve upon the registration committee in their precincts respectively. Each county chairman shall designate the order of his choice of such names for service upon the registration committee in each precinct, and the persons so first designated by the two county chairmen shall be chosen by the county clerk as members of the registration committee. One of such political parties shall be entitled to the third member of such committee in all even numbered precincts, and the other in all odd numbered precincts, and it shall always be the duty of the county commissioners to

number such precincts consecutively, beginning with number one (1) in each ward, district or political division of the cities within the provisions of this act. On said first Tuesday in July, the county clerk, or any deputy designated by him for that purpose, shall determine by lot which of such political parties shall be entitled to the third member of the committee in the various precincts. The third member of the registration committee shall be the choice of the county chairman, if such choice be designated, and if not, the county clerk may select any one of said names. If for any reason any one selected to act upon the registration committee refuses, fails or is unable to act at any time within forty-eight hours before any election, or primary, it shall be the duty of such member of the committee, or any member of the committee, to notify the county clerk, whereupon the county clerk shall forthwith, in the most speedy and convenient method, notify the county chairman of the political party to which such member belongs, whereupon it shall be the duty of the county chairman of such political party to forthwith indicate to the county clerk the name of some other elector in such precinct to act in the place of such person. If it is impossible to notify such county chairman of any such vacancy in the committee during the time of registration, two members of such committee, if a majority thereof, shall perform the duties of such committee until such vacancy is filled as provided herein. If there shall not be a majority of such committee remaining, in such contingency the county clerk shall designate to act upon such committee, pending the filling of such vacancy as provided herein, some qualified elector in said precinct belonging to the party entitled to such representation, so as to constitute a majority of the registration committee; *Provided, however*, that the county clerk must designate some person who was named originally by the county chairman in the list submitted as herein provided, if any such person be willing to act. If there be no county chairman in any county so that there can be no specific compliance with the provisions of this act as to appointment of registration committees or judges of election, the county clerk shall make such appointments as near in compliance with the intention of this act as possible, obtaining such list of names from precinct committeemen of such party, if any, and if not, then selecting representatives of such political organization as may be entitled to representation on such committees. If a vacancy in such committee should occur upon the date of any election or primary, by failure of any member of such committee to appear at the polling place at the time provided by law for the opening thereof, the vacancy shall be filled by vote of the bystanders as now provided by law; *Provided, however*, That if such member of the committee shall appear at the polling place within thirty minutes from the opening thereof, he shall be entitled to act upon such committee as such judge and in such event the election judges shall make note of such fact in their official returns from such precinct. In no event shall any person so selected because of such vacancy on the day of any election be permitted to act for a longer period than during such election or primary, but as soon thereafter as the duties of such judges for the particular election, or primary day are discharged, any vacancy shall be filled in the manner herein provided.

1. The right of the elector to be safeguarded in the exercise of his franchise—a right conferred by the sovereign authority of the state—carries with it the corresponding duty, on the part of the state, to furnish all needed protection. This is of public concern; therefore, even municipal elections are within the provisions of Sections 3c, 26, of the act of May 30, 1911, regulating elections.—(570).

2. The judgment of the district court awarding mandamus to the election commission of Denver, requiring them to appoint temporary registration committees for the municipal election then approaching, from lists furnished by the chairman of the two political parties having cast the highest number of votes for governor at the last preceding general election, as required by the act of May 30, A. D. 1911 (Laws 1911, c. 127) affirmed—(563, 571). *Albert E. Mauff vs. The People*, 52 Colo., 562.

d. Within five days after the time provided herein for the designation and appointment by the county clerk of the members of such registration committee, it shall be the duty of the county clerk to issue

three certificates under his official seal certifying to the appointment of such committees in each precinct as provided herein. Such certificate shall contain the name, business, postoffice and residence address of the members of such committee in each precinct, with a statement under the seal of the clerk that they were selected by him in accordance with the provisions of this act, one of which certificates shall be mailed by the county clerk to each of the members of such committee addressed to his postoffice address. It shall also be the duty of the county clerk within the said five days to transmit by mail to each of the respective county chairmen of the two principal political parties aforesaid a true, exact and certified copy of the list of members of the registration committee appointed as herein provided. The original of such lists on file in the office of the county clerk, and all other registration lists of names and election records, shall be public records and subject to the inspection and examination during office hours, by any elector of the State, and to the right to make copies thereof.

e. With the certificates transmitted or delivered by the county clerk to the members of the registration committee in the precincts respectively, there shall be enclosed the form of oath hereinafter set forth, which shall be filled out and signed by each member of such committee and returned and filed in the office of the county clerk within five days after the date of receipt of such form of oath by said registration committee, and it shall be a public record. The oath to be taken and subscribed by the members of the registration committee shall be substantially as follows:

I, ....., do solemnly swear (or affirm) that I am a citizen of the United States and the State of Colorado, of the county of....., city of.....; that I have resided within the limits of.....precinct, .....ward (or district)....., for at least six months last past; that I am a bona fide member of the..... party; that I will faithfully perform the duties required of a member of the registration committee and judge of election precinct....., ward (or district)....., in the city of....., .....county, Colorado, according to law; that I will not wrongfully omit from registration the name of any qualified elector; and, that I will not knowingly register anyone who is not legally entitled to register, so help me God.

f. The oath provided for in this act shall be taken before any person authorized to administer oaths. No person shall be qualified as a member of such registration committee, except in case of vacancy within forty-eight hours before election or primary day, or as otherwise provided in this act, until such oath has been duly subscribed, sworn to or affirmed and filed as herein provided. If any person selected to act upon the registration committee shall fail to subscribe, swear to or affirm and file such oath or affirmation as herein provided, within five days from the time of his appointment, the county clerk shall forthwith notify the county chairman of the political party who may have designated, or who may have been entitled to designate such member of the committee, and upon failure of such person to comply with this section within forty-eight hours thereafter, such failure shall constitute a vacancy. In the case of a person properly designated as registration committeeman, as herein provided, or appointed to fill vacancy, where no person authorized to administer oaths is available, it shall be deemed sufficient for the different registration committeemen to administer the required oath, one to another.

**Sec. 4. Precinct committeemen to furnish lists to county chairmen—**  
**Form of precinct list.**—Ten days before the time necessary for any county chairman to submit to the county clerk the names of proposed members of the registration committee as provided by subdivision C of section 3 of this act, and at such other times as shall be necessary in

order to comply with the provisions and intention of this act, the county chairman of the respective parties entitled to representation upon said registration committee shall demand in writing of the precinct committeeman in each precinct, the names of not less than three nor more than six qualified electors who reside in the precinct to act as members of the registration committee, whereupon it shall be the duty of such committeeman forthwith, in no event to exceed five days from the time of such demand, to submit such lists in writing with the names and addresses in substantial compliance with the provisions of this act. The county chairman shall furnish blank forms to each committeeman for the submission of such lists, which shall be substantially as follows:

"To.....  
County Chairman of the.....Party.

In accordance with the election laws of....., 1911, section four (4), I submit herewith not less than three nor more than six names to be transmitted by you to the county clerk, as suitable members for the registration committee in precinct....., ward (township, or district, as the case may be).....  
(Name) .....  
(Postoffice Address) .....  
(Business Address) .....

I further certify that said persons so designated are known by me to be members in good standing of the.....Party; reside in the said precinct and are qualified electors in this county.

.....  
Committeeman of the.....Party  
for precinct.....Ward (Township or District).....  
County of....."

**Sec. 5. County chairman must use list furnished by precinct committeemen—Exceptions.**—It shall be the duty of the county chairman at all times in recommending persons for members on the registration committee to select only such names as are filed with him by the precinct committeeman in accordance with section 4 of this act, it being the intention of this act, that the members of the registration committee shall be appointed from the lists submitted by the precinct committeemen; *Provided*, That if such precinct committeeman shall fail or neglect to comply with the provisions of this act in making due responses to the request of the county chairman to furnish such names to the county chairman, then in such event the county chairman may select such members of the registration committee for any such precinct to be designated to the county clerk.

**Sec. 6. Causes for removal of committee and election judges—Removal for neglect of duty, fraud, etc.—Manner of removal—Petition to court.**—a. Any member of the registration committee or election judges may be removed in either of the following ways: (a) Upon the filing of a statement with the County Clerk by the County Chairman of the political party in whose behalf said member was appointed, that after investigation, he is of the opinion that his party is not faithfully or fairly represented by said committeeman. Upon the filing of said statement it shall be the duty of the county clerk to forthwith notify such committeeman of his removal and the cause thereof; when his successors shall be forthwith appointed as in other cases.

b. If any member of such registration committee or election judges has neglected his duty in attending to such registration, or has committed, encouraged or connived at any frauds in connection therewith, or has violated any of the election or primary elections laws, or has knowingly permitted others to do so, or has been convicted of any crime, or has violated the oath provided for herein, or has wrongfully hampered or interfered or tends to interfere with the due and regular performance

of the duties of the registration committee or any member thereof, or committed any other act which interferes or tends to interfere with carrying out the purposes of this act to provide a fair and honest registration and election or primary election or if the appointment of any member was not made in accordance with the provisions of this act, such member may be removed from said committee in the following manner:

A brief petition by the person making such charge shall be filed in the district or county court of the county at any time, provided such time is at least five days before any election or primary election setting up in brief and concise language the facts constituting the cause for the removal of such member of the committee; whereupon the court shall issue a citation to such registration committeeman or judge of election directing him to appear at a time within forty-eight hours thereafter to answer such petition, if he desires so to do. The court shall proceed summarily to hear and finally dispose of such petition, and within forty-eight hours of the time of the filing of the answer may hear evidence in relation thereto. If the court shall decide that such registration committeeman or judge of election ought to be removed for any cause stated in the petition, it shall be so ordered and he shall notify the county clerk thereof forthwith, whereupon the chairman and county clerk shall forthwith fill the vacancy as provided herein for original appointments upon said committee.

Such petition shall be verified, but the verification may be upon information and belief. Any evidence given by any such accused registration committeeman or judge of election as a witness for petitioner at such hearing, or the result thereof, shall not be used against him in civil, criminal or other proceedings.

c. Upon the failure or neglect of the members of such registration committee, or a majority thereof, to make the canvass and return the same to the county clerk, according to law, or to otherwise perform the duties provided by this act to be performed by such registration committee and the members thereof, it shall be the duty of any member of such registration committee, any county chairman of a political party organization, or any elector in the precinct for which such registration committee and each member thereof is appointed, having knowledge of such failure or neglect, to cause proper action for removal to be instituted against such member of said committee. It shall also be the duty of the county clerk to take prompt and immediate action in all such cases coming to his knowledge. Any vacancies occurring in such registration committee for any cause shall be filled in the same manner and with like effect as said committee is provided to be originally constituted and appointed. The validity of any part of the registration already completed, or other acts done or provided hereunder, if otherwise legally done, shall not be affected by the removal of a member of such committee, but the same shall be in every respect valid and regular, and the successor of any such person removed, or retiring from such committee for any cause, shall proceed with such canvass and the other duties of such committee with like power and effect as though originally appointed as a member of such registration committee.

Sec. 7. County Clerk to deliver to Registration Committee copy of registration book—Form of clerk's certificate—Meetings of Registration Committee—Who may register.—One day prior to the beginning of precinct registration, the county clerk shall deliver to a majority of the registration committee a true copy of the registration book used at the next preceding election, and containing the names of all those who voted at the preceding election, with the exception of those whose names have been stricken by the county clerk under the provisions of this act. The clerk shall attach to each of said registration books a certificate substantially as follows:

"I hereby certify that the within copy of registration for Precinct ..... Ward or District.....County,

Colorado, containing.....names, is a true and correct list of all the voters in said precinct who voted therein at the last general election and whose names appear on the original registration book of said precinct in my office.

.....  
County Clerk."

On the fourth and third Thursdays preceding the day of election, said registration committee shall sit at some suitable place to be provided by the county commissioners, selected in accordance with the methods and law of the State for the providing of polling places for election, which place shall be as far as practicable, centrally located within the precinct, from nine o'clock a. m. until nine o'clock p. m., and shall proceed to complete said registration list in accordance with the provisions of this act, it being the purpose and intent of this act that any elector who has once been registered shall not have to again register for any primary election unless he shall have failed to vote at the preceding general election, and at said times they shall place on their registration books the names of all qualified electors of their precinct, who are not already on the registration, after the following manner:

First. All who shall present themselves in person for registration and take the form of oath herein provided for and comply with the provisions of this act respecting registration.

Second. Any elector who is already registered, whether by virtue of having voted at the preceding election, or has appeared in person and registered at the time the registration committee is sitting, and who is personally known to the registration committee, may register any person or persons to the number of not more than three (3) or any member of his family including servants to any number thereof, who reside and have resided at the same address for at least ninety (90) days last past, by signing such name or names on the list and thereafter signing his own name as voucher, in the presence of a majority of the registration committee, and by making oath as follows:

"I, ....., do solemnly swear by the ever-living God (or affirm) that I am a citizen of the United States and a qualified elector in ward.....(or district)....., precinct....., in the county or city and county of.....; that I am registered from No.....Street, and a resident of that address. That..... (name of person or persons), whose names I have caused to be placed on the registered list of qualified voters from the same address in this precinct, reside at such address, and have resided there for ninety (90) days last past, and are qualified electors entitled to be registered and to vote from such address in such precinct, at the ensuing election."

In all cases where electors are permitted to be registered by vouchers, the person so vouching for them, as far as known by them, shall furnish the information required concerning such elector, which shall be filled in the blank spaces for that purpose in the registration book.

All registrations shall be made in ink and shall be made only in the registration book furnished by the county. Except as herein otherwise provided, each elector registered shall answer the questions concerning all matters required by Section eight (8) of this act and sign his or her name, or, if unable to write, make his or her mark, and the answer so made by the elector shall be entered in the registration book by the members of the registration committee selected or directed by the committee to make such entries, in the proper place, and shall, together with the signature of the elector be attested by at least one member of the registration committee, the elector first taking the following oath before one of the members of said registration committee, all of whom are hereby empowered to administer such oath or other oath necessary to the performance of their duties under this act or the carrying out of its provisions:

"I, ....., do solemnly swear (or affirm) that on the date of the next ensuing election I shall be over the age of twenty-one years and shall have resided in the State of Colorado at least twelve months, and in the county at least ninety days preceding the said election, and in the city of..... at least thirty days and in precinct..... at least ten days before election, and that I am a citizen of the United States and a qualified elector in said precinct."

**Sec. 8. Questions to be answered by elector when registering.**—It shall be the duty of each qualified elector to be lawfully registered, except as otherwise provided herein, to answer concerning the following matters: (1) Name in full. (2) Whether married or single. (3) Place of residence, which, if urban or suburban, shall be located according to its street number, or if there shall be no street number, then by the description of the lot or lots, in the block or blocks in the addition, division or subdivision into which the land upon which the residence is located, is divided; in all other cases the residence shall be located by the section or sections or subdivision thereof, in the township and range as established and numbered by the United States government survey.

(4) Whether owner of, tenant of, or lodger with occupant of residence. If the voter is a lodger in any rooming house or hotel the number of the floor and the number of the room shall be given and stated in the registration book.

(5) Whether a taxpayer in the city in which the election is to be held.

(6) Whether a native born or naturalized citizen of the United States. If a naturalized citizen, the applicant shall state how naturalized, whether by naturalization of self, parents, or otherwise; applicant shall state as near as may be to his best knowledge, information and belief, when self, parents, or if a female, when husband was naturalized, the place and time of naturalization and by what court the naturalization papers were granted.

(7) A description of his person, consisting of his height, sex, age, complexion, color of eyes and any other physical features by which he can be readily identified.

(8) His profession, business or employment. (9) His postoffice address. (10) The applicant shall comply with any educational qualifications required by law. It shall only be necessary for a female voter to state that she is twenty-one (21) years of age and over, in answer to all questions relating to her age.

**Sec. 9. Persons present when polls close allowed to complete registration.**—a. All persons in the polling place at the hour of closing the registration shall be allowed to complete their registration and the polls shall be kept open after such hour of closing only long enough to allow those actually present at the hour of closing to complete their registration.

**Sec. 9. Arrangement of registration list.**—b. The registration list so made shall contain the names of the qualified electors of the voting precinct in which the same is made, alphabetically arranged, according to the surnames, so as to show in one column the name of each elector at full length, and in another the place of his residence, designated by the number or name of the street and the number of the house, if numbered, and if not, the section or other subdivision thereof, according to United States surveys, on which such elector shall reside, if he resides on surveyed land, and if not, such description as will best locate his residence.

**Sec. 10. Duty of Registration Committee in re registration list.**—Committee to post list—County Clerk to deliver copy of list to each county chairman—County Clerk to deliver corrected list to member of Registration Committee—Corrected list to be posted—Clerks of election to keep poll and tally lists.—Upon the completion of such lists of regis-

tered voters, the registration committee shall forthwith, and not later than two days after the last day of precinct registration, deliver the same to the county clerk. They shall also make four copies of the names and addresses of the registered voters, three of which they shall send to the county clerk with the registration book. The other, they shall, not later than two days after the last day of precinct registration, post in some conspicuous place as near as practical or convenient to the polling place to be used at the ensuing election, so as to be accessible and convenient to any elector who may desire to inspect the same. It shall be the duty of the county clerk, upon receipt of the list of names and addresses of the registered voters in the various precincts from the registrars, to forthwith, and within twenty-four hours, deliver one of said copies to each county chairman of the two political parties having cast the largest vote for Governor at the last preceding election, taking his receipt therefor, and retain the third copy of the list of names and address for correction. The clerk shall correct the retained list of names and addresses received from the registration committee in accordance with the original registration book as it is on the ninth day preceding the election, and forthwith send the same to the member of the registration committee representing the political party that cast the second highest vote for Governor at the next preceding election. It shall be the duty of such registrar to forthwith and at least five days preceding the ensuing election, post the same in the place and stead of the list of names provided to be posted after the completion of precinct registration, which list shall remain posted until after the day of election.

At all primaries and elections the clerks of election shall also keep the usual poll and tally lists now kept or in use at general elections. The judges at elections and primaries shall certify in their returns the names and addresses of themselves and of the clerks officiating thereat.

**Sec. 11. Removal of elector from precinct—Duty of County Clerk in cases of removal and change of address.**—Any qualified elector who has been registered and who, subsequent thereto, shall have removed from the precinct in which he is registered to some other precinct may appear before the county clerk at any time within a period of not less than ten days prior to the day of any election, and upon making oath as to his present residence in said precinct, said county clerk shall draw a red line through the registration of said voter, making note as follows, in column for "remarks": "Changed.....19...., to precinct .....ward (or district)....." and shall register in red ink such elector in the registration book for the precinct to which he is moved. Changes from one number in the precinct to another number in the same precinct may be made in the same manner, or may be made on election or primary day by the judges. The county clerk or deputy making such change shall sign his or her name in the column for the signature of the registration committee.

**Sec. 12. City elections.**—a. Within thirty (30) days after any general city election (except a primary) the city officers having custody of the returns shall deliver to the county clerk one of the original poll books used at the preceding election, containing the names of all those who voted thereat, and said clerk shall use the same in purging the registration, as provided in this section.

**Sec. 12. Purging of registration list by County Clerk—County chairman may challenge legality of registration—Appeal to county or district court—Duty of committee in premises.**—b. Within forty-five days after any general election held after the passage of this act, the County Clerk shall compare the poll list of voters who are shown thereby to have voted at the election, with the original registration for such elections, and strike from such original registration the names of all persons who failed to vote at such election by drawing a red line through their names and writing thereafter in the column headed "remarks," the words, "failed to vote." The registration lists, as thus purged, shall be the

registration for the next succeeding primary election, with the names of such additional persons added thereto as shall, after the completion of said purging, have appeared personally before the county clerk for original registration or change of registration not more than thirty nor less than three days before any primary, and complied with the requirements of law respecting registration before the registration committee, and said clerk shall register any qualified elector who shall so appear in person for registration.

Any county chairman or his representatives or any qualified elector in such precinct may also appear at the time of precinct registration and protest against the registration of any name already appearing upon said registration list registered during that precinct registration, which is claimed to be illegal or fraudulent, and a majority of such committee, if satisfied any such name is illegal or fraudulent, may strike the same from the list, subject to the right of any person whose name is so stricken, or any county chairman, to apply in a brief petition to the District or County Court to have his name or such name restored to such list if legally entitled to remain there. No fee shall be charged or collected in any case where such name may be restored to the registration list. Such protest, and two copies thereof, must be filed in writing with such registration committee upon said day, and it shall be the duty of the committee to return the said protest and copies thereof to the county clerk at the time of making return of such registration book as provided herein, with a statement by all or any one of said committee as to any knowledge or information obtained; their opinions as to the truth or falsity of such protest, and their action in respect thereto, which statement shall remain on file with the county clerk. Forthwith, upon such filing with the county clerk, it shall be his duty to deliver or mail a copy of such protest so filed with him, to each of the two county chairmen. Such statement filed by the registration committee, or any member thereof, shall be conveniently kept with the registration book or records from such precinct and subject to public inspection.

**Sec. 13. Method of challenging false registration—Contents of petition—Clerk of court to notify all parties involved—Form of subpoena—Form of notice to challenge elector—Court to determine charges.—a.** At any time not more than twenty-five nor less than eighteen days before any election or primary election, any qualified elector may file in the county or district court a petition, which shall be under oath, alleging that the petitioner has made careful investigation, and believes that names registered by the registration committee are illegally or fraudulently registered in certain precincts, which shall be stated. The petition shall set forth consecutively and in alphabetical order each of such names, with the address given in the registration book in each precinct, and the names of the registration committee in such precinct. Such petition shall state briefly the facts upon which such charge of illegality or fraud is made. The verification may be made upon information and belief. As soon as possible, and within twenty-four hours after the filing of such petition, the clerk of the court shall mail to each member of the registration committee in such precinct a subpoena in the form following, and shall mail to each name and address alleged therein to be illegal or fraudulent, a notice of the filing of such petition, and the time of hearing the same, which shall be not less than three nor more than five days thereafter. The subpoena to the members of the registration committee shall be substantially as follows:

"You are notified that on the.....day of.....  
 ..... filed in the.....court a  
 petition asking for the purging of certain names from the registration  
 list in precinct....., ward....., and that  
 it appears from the record that such registration was made by you, and  
 that you have represented it to be legal and correct. The petition  
 charges that the list of names attached hereto in said precinct registered  
 by you are illegal or fraudulent.

You are notified to appear and answer the charges of said petition at the hour of.....o'clock on the.....day of ....., 19...., at the.....court, at the court house, in the city of .....

You are further notified that failure to appear, without good or sufficient excuse, renders you liable for contempt of court and punishment accordingly, as provided by the registration law.

.....  
Clerk."

(Attach list of names and addresses in alphabetical order.)

The subpoena shall be issued on the court's motion and the county shall pay the witness and mileage fees.

The notice mailed to the name and address of each person in such precinct mentioned in such petition as being illegally or fraudulently registered shall be substantially as follows:

"You are notified that..... (stating the official position of such petitioner, if the petitioner should be a county chairman, member of a registration committee, or otherwise), has filed a petition in this court, asking for the purging of the registration in precinct .....ward.....

It is charged in such petition that your name appearing upon the registration lists of such precinct was illegally or fraudulently registered.

You are notified that said cause will be heard at the..... court, at the court house in the city of.....at the hour of.....o'clock, on the.....day of ....., 19.... You are notified that your name will be stricken from such registration list if it shall be proved by the evidence at such hearing that you are not entitled to registration.

.....  
Clerk."

b. It shall be the duty of any person filing a petition as herein provided, for the purging of registration, to file therewith two duplicate copies of the same, and it shall be the duty of the clerk of the court to immediately deliver or mail to each of the two county chairmen one such duplicate copy, together with the notice stating that the original of such copy has been duly filed in his office, stating the time of such filing and the time and place when the cause is set for hearing.

c. Any person whose name is charged to be illegally or fraudulently registered, who shall appear in person and make oath that he or she is a legally qualified elector to vote in such precinct, or any person not present, whom any one member of such registration committee shall make oath in court is a legally qualified elector in said precinct, shall, for the purpose of such hearing, be conclusively entitled to have his name remain upon such registration list. Any person making such oath in open court shall be subject to cross examination by the petitioner or any person representing the petitioner at such hearing. If any person at such hearing shall testify that any one thus retained upon such registration list by such oath or affirmation is not a qualified elector in such precinct, a record of the fact shall be made and transmitted by the clerk of the court to the district attorney.

d. In all cases, except those which shall be conclusively entitled to remain upon the registration lists by reason of the oath or affirmation provided in the last paragraph of this section, the court shall investigate summarily and within forty-eight hours after the close of the evidence determine whether or not such charges are sustained; *Provided*, only competent legal evidence shall be received on such hearing or considered by the court, and no name registered in accordance with law shall be struck from the registration unless it shall be so proved that the challenged person is not a qualified voter in the precinct wherein he is registered. No presumption shall be indulged in against any person

whose registration is challenged merely because of the failure of such person to attend the hearing. At the close of such hearing the court shall announce the names in such petition as to which such charges have been sustained, and shall direct the clerk of the court to forthwith certify to the county clerk the lists of names of such persons, with their addresses in each precinct and ward, arranged alphabetically and according to precincts. It shall thereupon be the duty of the county clerk, upon the receipt of said list from the said court, to forthwith strike such names from the registration lists in the proper precinct by ruling a red line through such name, with the notation in the column for "remarks," that such name or names were stricken out in pursuance of the order of such court, giving the date of such order.

e. Any person who shall without previous investigation, or without reasonable cause or excuse, wilfully charge in any petition filed in such court that the name of any person upon such registration book or lists is illegal or fraudulent, or who shall not file such petition in good faith, or who shall file the same for the purpose of hindering or delaying any registration or any election, and not for the purpose of purging such registration lists of illegal or fraudulent names, shall be deemed guilty of a misdemeanor, and also of contempt of court.

Any member of the registration committee, or any person whose name is charged to be illegally or fraudulently registered, shall have the right to charge by written affidavit filed in such cause, which affidavit may be upon information and belief, that the person filing such petition is not acting in good faith, but has been guilty of any of the acts or improper motives mentioned herein, and if, upon hearing, which shall be at the same time the case is heard on the petition, any of such charges are, in the opinion of the court, sustained, such persons shall be guilty of a misdemeanor and of contempt of court.

f. All hearings of any such petition shall be summary, final and not the subject of delay.

g. No other pleadings than the said petition and affidavit shall be permitted to be filed in any such cause.

h. The court shall have the power to subpoena any person or persons as witnesses at such hearing and make any necessary investigation to ascertain the truth of any of the charges in such petition or affidavits, provided the method of such investigation shall not cause unnecessary delay or interfere with the final disposition of such cause within the time provided for herein.

Persons subpoenaed shall be paid by the county the usual witness and mileage fees allowed witnesses for the people in criminal cases in courts of record. The decision of the court in any such case shall be final, and no appeal shall lie to any other court, except that the Supreme Court may, in the exercise of its discretion, review any such proceedings in a summary way. The penalty for tampering with or destroying such list shall be printed in a conspicuous place on the outside thereof, and the registration committee shall adopt reasonable methods for the posting of such list so as to protect it from the weather or theft, and make it accessible to the public at reasonable times, and they shall sign their names and addresses on the cover of such list.

**Sec. 14. Registration Committee to sign and swear to list compiled by them—Form of certification—Registrars make copies of list.—a.** When any registration book or copy thereof is delivered to the county clerk under any provision of this act, there shall be attached thereto a certificate, signed and sworn to by the members of the registration committee making the registration contained in such book, certifying substantially as follows:

"We, the legally appointed committee for the registration of the electors for ward (or district).....precinct .....do solemnly swear (or affirm) in the presence of the ever-living God that we have diligently performed the duties required of us by law in completing the registration of voters for said

precinct, and have herein entered the names of electors in accordance with the provisions of the statutes of the State relating to the registration of voters, and that as such registration committee for the purpose mentioned, we did sit at number....., (district, ward or other description of the place of registration) in the said precinct between the hours of seven o'clock a. m. and nine o'clock p. m. on the ..... day of....., for the purpose of registering electors in said precinct, and we have in all respects complied with the law in making the registration of said precinct up to and including the day of this certificate, and we have not knowingly permitted any illegal or fraudulent registration in said precinct.

.....  
 Committee of registration for ward (or  
 district)....., precinct.....

Subscribed and sworn to before me this.....day  
 of....., A. D. 19...."

b. Any member of the registration committee may make daily copies upon duplicate sheets or duplicate registration sheets, of registrations made by such committee. It shall be the duty of the members of such committee to sign and certify to any copy of their registration list when requested by any member of the committee.

**Sec. 15. County Commissioners to provide election supplies, etc.—Contents of registration books.**—The board of county commissioners in each county from time to time as may be required by this act, shall provide for all election precincts all necessary supplies and registration books which shall be of sufficient strength and durability for the registration provided for; such books shall be of convenient size and shape, conforming in the printing and blank spaces to the requirements of this act, and shall be arranged for the registration of names in divisions to be composed of ruled columns with appropriate headings, under the information obtained or required by the registration committee concerning the proper answers and statements made by each elector in being registered in compliance with the act, shall be recorded. The names of the electors as registered shall be numbered under each division, consecutively from one upwards, and the date of registration shall also be recorded. There shall also be ruled columns under each one of said divisions for the signature of electors for informants as to their qualification and the name or names of the registration committee; also a column with the heading, "Registration Changed From" and sub-headings, "Election Precinct No....." and "Register No....." whereunder in all cases of changed registration or change of residence of any elector shall be stated the election precinct and registry number of elector's last registration. There shall also be a ruled column "Remarks," under which shall be briefly noted any important information affecting the registry of the elector.

**Sec. 16. Form of headings of registration books.**—The headings of the registration books shall be substantially as follows, viz.:

[See accompanying diagram.]



DIAGRAM "A" FORM OF REGISTRATION BOOK IN PRECINCTS IN CITIES, MUNICIPALITIES AND TOWNS WITH A POPULATION EXCEEDING TWO THOUSAND—Continued

[illegible]



DIAGRAM "A" FORM OF REGISTRATION BOOK IN PRECINCTS IN CITIES, MUNICIPALITIES AND TOWNS WITH A  
POPULATION EXCEEDING TWO THOUSAND—Continued

INFORMANT ADDRESS	REGISTRATION COMMITTEE	REGISTRATION CHANGED FROM			REMARKS
Signature of	Signature of	Ward and District	Precinct	Registration No.	
Name  Address					

**Sec. 18. Duty of Secretary of State to prepare form.**—It shall be the duty of the Secretary of State to make out a complete form of registration book, with the oath of the registrar to any blank and the requisite blank column properly headed, and to have the same printed and send copies thereof to the clerk of each county, together with a sufficient number of copies of the registration and election laws bound in pamphlet form.

**Sec. 19. Duty of County Commissioners and Clerk to furnish election supplies.**—It shall be the duty of the county commissioners to supply and the county clerk of each county to see that there is delivered whenever required for any primary or election for the use of the board of registry and judges of election in each precinct, all necessary supplies as may be required under the provisions of this act for the registration of voters, and he shall send them by mail or other safe conveyance to the member or members of the registration committee authorized to receive the same so as to be in their possession at least five days prior to the day of the first meeting of the registration committee for making any registrations required by this act.

**Sec. 20. County Clerk empowered to make rules.**—The county clerk shall have the right to make reasonable rules for calling for the registration books and the delivery thereof and preserving the same from loss, mutilation and alteration and may issue written instructions to the various registrars as to the method of entering in their books the names of electors in accordance with the provisions of this act.

**Sec. 21. Duty of Registration Committee to call in person for books, supplies, etc.**—County Clerk to deliver original registration book to committee.—It shall be the duty of a majority of the registration committee to call in person at the office of the county clerk and recorder at least one day prior to any primary or election, for the purpose of receiving the original books of registration, which original book of registration shall be used by such judges at their respective polling places in complying with the provisions of this act, and no copy thereof shall be used for such purpose unless the original has been lost, destroyed or stolen. On the day preceding any primary or election the clerk shall deliver the original registration book to the judge representing the political party entitled to the minority judge in such precinct. Said registration book shall be furnished to said judge in a sealed envelope, which said envelope shall not be opened until the morning of primary or election day at the precinct in the presence of the judges. The custody of the registration book shall be with the judge of election in each precinct to whom it was delivered by the county clerk.

**Sec. 22. Boundaries of election precincts—Registration Committee for new precincts—Limit of electors in one precinct—County Clerk to transfer names of registered electors in new precincts.**—a. The boundaries of election precincts in cities for city elections shall be co-extensive with those in such cities for county elections; and they shall not be changed nor shall any new election precinct or precincts be created, within the limits of any city, or city and county with a population exceeding two thousand within less than three months prior to any city, county or state election; and whenever such boundaries shall be changed, or a new election precinct or precincts be created, as provided by law, within ten days after the creation of such new precinct or changes of such boundaries, it shall be the duty of the person charged with such duties under this act to forthwith proceed in accordance with the directions and provisions of this act, to appoint a registration committee for such new or changed precincts. The officers charged by law with such duty shall whenever necessary, as herein provided, create election precincts or alter or divide any existing election precincts in any city, county, or city and county, in such manner that each election precinct shall as near as possible contain not more than Five hundred (500) registered votes.

b. In case any new election precinct shall be formed, or in case of the division of any voting precinct, the names of all voters residing in that part of any precinct detached shall be forthwith stricken by the county clerk from the registration list of such precinct, and shall be by him inserted in the registration list of the new precinct or the precinct of which such part may have been attached, at least ten days prior to the ensuing primary or to the fourth Tuesday preceding the day of election, as the case may be.

**Sec. 23. Officers in charge of city elections—Duties of City Clerk—**

**Notices.**—a. In city elections all matters relating thereto and required to be done hereunder shall be performed by the city officers as now provided by law, and the city clerk shall perform all of the duties required of the county clerk except the appointment of the registration committee and judges of election, and the custody, preparation, delivery and purging of the registration books, and corrected list of names and addresses, and registration of electors, which shall be done by the county clerk. The board of county commissioners of any county wherein is situated any city other than the county seat having a population of five thousand or more inhabitants shall, provide a suitable place in such city for the registration of electors therein for the primary and ensuing election. The county clerk shall, by advertisement in a daily newspaper of general circulation in such city, give notice daily for ten days prior to the beginning of registration to the effect that registration will be had in such city, giving the times and place, and such other information as is requisite to inform the electors of such registration. He shall likewise cause printed notices to be posted on the outside of the place where such registration is to be conducted at least ten days prior to the beginning thereof, giving a like notice to the electors of such city. It shall be the duty of the county clerk to appoint a deputy or deputies to register the electors of such city as electors are registered before the county clerk. Said deputy or deputies shall on the first and third day preceding any election or primary sit at the place designated between the hours of 7 a. m. and 9 p. m. for the purpose of such registration. They shall take with them the original books of registration for the precincts included within such city and sit at the place provided by the county commissioners for such registration during the times registration is provided for at the county seat before the county clerk and proceed to register the voters of the various precincts of such cities, who shall appear before them in person and comply with the provisions of this act respecting registration before the county clerk. Changes of registration may be made before such deputy clerks in the same manner as is provided for before the county clerk. The original books of registration shall, at such times as they are not required for registration or change of registration in such city, be returned to and kept in the office of the County Clerk.

b. In all cities, cities and counties, operating under Article XX of the Constitution, when the charter thereof prescribed what officers shall perform the acts and duties required to be done and performed by this act, such charter provisions shall prevail, otherwise this act shall govern.

c. All acts and things required to be done by the county chairman shall, in city elections, if there be a city chairman of the political parties participating in such elections, be performed by such city chairman, except the filing of the original lists with the county clerk for the selection of the registration committee. The members of the city committee of such parties participating in such elections shall perform the acts and duties required of the county committee, if there be a city committee as distinct from the county committee representing such organizations in any such city elections. In all respects this act shall be followed and its purposes and intentions observed in city elections.

All expenses incurred by the county in the matters of city elections shall be paid by the city to the county.

**Sec. 24. Special elections.**—Those who may not act as registrars in special elections.—In any special election for the submission of public

questions or the issue of bonds or the granting or refusal of or concerning public franchises only, the registration shall be made as provided in this act for general elections, and the time for such registration and performance of other acts shall be a like time before such election, and in every other respect such election shall be in conformity with this act, as far as practicable. Any special elections shall be called in sufficient time before the date thereof, as to permit such registrars to comply with the provisions of this act.

b. No person in the employ of or owning any stock, bonds or securities of any public utility corporation seeking a public franchise at any election shall be permitted to act as a registrar, judge, clerk or election official at any such election.

Sec. 25. Existing poll and registration books to be turned over to county clerks—New registration under this act—County Clerk to publish notice of new registration—Registration to be completed ten days before election.—Immediately after the passage of this act persons having the custody of the poll and registration books used at the preceding election shall deliver the same to the County Clerk, who shall thereupon proceed to make up a registration list by precincts. Said list shall be made up by registering in books provided for that purpose all persons who are shown in the poll lists to have voted at the preceding election. If in any precinct the registration and poll lists are not available, the clerk shall, beginning with the 15th day after the passage of this act, and continuing down to within three days of the next ensuing primary, or as the case may be, within ten days of the time when the registration books are to be delivered to the registration committee for the completion of registration, as provided in Section 7 hereof, register at his office at any time during regular office hours the names of all qualified electors who shall appear in person and comply with the provisions of this act with respect to registrations before the registration committee. Also the names of all qualified electors who shall be properly vouched for in accordance with the provisions of Section 8. Beginning with the 11th day after the passage of this act, the County Clerk shall give ten (10) days' notice by advertising in a daily newspaper of general circulation of each city of the precincts of which he has not received the registration and poll books, that he will register voters of such precincts at his office in order to make up the first registration under this act, stating the time during which registration shall continue, and that he will also during said time register any electors of other precincts who did not vote at the preceding election. The Clerk shall, in accordance with Section 7, deliver duly verified copies of said registration books to the registration committee, who shall proceed to complete the registration as provided in Section 8. Such registration shall be finally completed and corrected ten (10) days prior to the ensuing election, as provided herein, and the registration used at the first election held hereunder.

Sec. 26. Temporary registration committees to perform duties at elections held within sixty days after passage of this act.—In all cities and in any city and county in which any election held more than sixty (60) days after the passage of this act, whether general or special, may be held for county or city offices, or for the issuing of bonds, or for the granting of public franchises, or the voting upon any public question, or other matter, within the provisions of this act prior to the appointment of the permanent registration committees provided for herein, there shall be temporary registration committees appointed to carry out the provisions of this act. Such temporary registration committee shall be appointed as far as practicable in the same manner as the registration committees provided for by this act, having all the rights, duties and powers of such registration committees, and making the registration of voters under the provisions of this act, for any such election, in the manner provided by this act; *Provided*, that the time of appointment of such committee shall be forty-five days before any such election, *Provided*, also, that in submitting names for members of the registration commit-

tee by the county chairman to the county clerk, as provided herein, he shall not be required to obtain the same from the precinct committeeman, and the time of performance of all acts and duties of such temporary registration committee shall be a like time before such election as herein provided to be performed by the registration committee before any other election.

1. The right of the elector to be safeguarded in the exercise of his franchise—a right conferred by the sovereign authority of the state—carries with it the corresponding duty, on the part of the state, to furnish all needed protection. This is of public concern; therefore, even municipal elections are within the provisions of Sections 3c, 26, of the act of May 30, 1911, regulating elections.—(570)

2. The judgment of the district court awarding mandamus to the election commission of Denver, requiring them to appoint temporary registration committees for the municipal election then approaching, from lists furnished by the chairman of the two political parties having cast the highest number of votes for governor at the last preceding general election, as required by the act of May 30, A. D. 1911 (Laws 1911, c. 127) affirmed—(563, 571). *Albert E. Mauff vs. People*, 52 Colo., 562.

**Sec. 27. Fees of County Clerk for registration work—Compensation of registration Committee and clerks—Registration committee may employ clerks to assist—Compensation of other election officers.—a.** The county clerk of each county shall be authorized to receive from the county the sum of five cents for each registration by him made, for each change of registration made on the application of any qualified elector in pursuance of the provisions of this act, for each name by him stricken from the registration, for each notice issued and mailed under the provisions of this act, and for each name copied by him on the registration books furnished to the registration committee.

b. Each member of the registration committee provided for in this act shall receive a compensation for his services, to be paid in the manner and in accordance with the laws providing for the payment of election judges or similar election officials the sum of five dollars (\$5.00) per day for not to exceed two days actually served for registration, and the sum of five dollars (\$5.00) for acting as judge of any election. Clerks of election shall receive the same compensation as provided herein for judges of election.

c. The registration committee is hereby authorized to employ a clerk or clerical assistance if necessary, to make copies of the names and addresses herein provided for, at not to exceed the sum of ten dollars (\$10.00) for each precinct for such copies of the names and addresses of registered voters, as are provided for by this act, or the registration committee may make such copies and receive such compensation. Such committee, or any two members thereof, are authorized to sign a certificate certifying that any person named by them in the certificate has performed such clerical services, stating the amount of compensation to be allowed to said clerk to be paid as election judge or other election officials are paid.

d. The compensation for any election officer, not herein provided for, shall be as now provided by the laws of this State.

**Sec. 28. Oaths and affirmations to be preserved by County Clerk—Records to be preserved—Certified copies of records by Clerk.—The oaths or affirmations provided for by this act shall be preserved by the county clerk with the books and papers of each precinct respectively, until a new registration committee is appointed as provided by this act. The old registration books, records, affidavits or other papers shall not be destroyed until after the next general election. Such registration committee, clerks and electors, by their signatures, in the place provided in this act, in said registration books, shall be conclusively deemed in law to have duly verified the registration or change thereof of any elector, respecting whom such registration or change was made, in substance, manner and form as aforesaid, and shall for false attestation, swearing or certifying, be subject to the penalties prescribed in this act.**

Said registration books, certificates, oaths, statement or certified copies of the same by the county clerk, or the certified copy of entries therein by such clerk, shall be admissible in evidence as proof of the taking of said oath or affirmation in all criminal proceedings for the punishment of false attestations, swearing, wrongful registration, certifying, signing or issuing of any paper or statement provided by this act. Upon request of any registered elector, it shall be the duty of the county clerk to make out and deliver to such elector a certificate of the registration of such elector, setting forth the fact of such registration, including the date, description and other information recorded in connection with the registration of such elector, which certificate shall be attested by the hand of the county clerk and the seal of the county. The county clerk shall be allowed a fee of five cents for each of such certificates, to be paid by the applicant. Registration books shall be left in the custody of the county clerk, who shall be responsible therefor, except when in actual use by the registration committee or judges of election in the performance of their duties. The masculine pronoun used in this act shall also include the feminine.

**Sec. 29. Clerks to be of opposite political faith—Who may appoint.—**Each of the two political parties casting the largest vote for Governor at the last preceding election, shall be entitled to a clerk in each precinct at each primary and election, who shall be appointed by the judges of the party entitled thereto.

**Sec. 30. Party chairman may appoint watchers—Alternates—Who may be present during casting and counting of votes.—a.** The chairman of each political party may name a watcher at the registration in any precinct. Watchers or challengers shall be electors of the precincts in which they act. Each challenger or watcher shall have the right at any time to appoint an alternate to take his place, with all the rights and duties of such watcher or challenger, to act during such time as such watcher or challenger may be absent, and not to exceed two persons designated by any watcher or challenger may remain in or about the polling place during the counting of the vote and certifying the returns; and it shall be the duty of the judges of such precinct to protect such watchers and challengers or their alternates or representatives in all the rights guaranteed them by the statutes of this State.

b. In all primaries, the party committeeman of each party, of any precinct, may represent his party at the polling place during the casting and canvass of the vote at a primary, or he may appoint an agent, or the chairman of each party may designate a member of his committee or other person for such purpose. Any candidate for a nomination on the ticket of any political party nominating candidates at the primary shall be entitled to act as challenger, or watcher during such primary and the canvass of the vote thereof.

**Sec. 31. Settlement of controversies, how effected—Supreme Court may review and adjudicate.—**Whenever any controversy shall arise between any official charged with any duty or function under this act, and any candidate, or the officers or representatives of any political party or persons who have made nominations, upon the filing of a petition in the District or County Court by any such official or persons, setting forth in concise form the nature of such controversy and the relief sought, which petition shall be under oath, it shall be the duty of such court, or the judges thereof in vacation, to issue an order commanding the respondent in such petition to be and appear before the court or judge, and answer under oath to such petition; and it shall be the duty of the court or judge to summarily hear and dispose of any such issues with a view of obtaining a substantial compliance with the provisions of this act, by the parties to such controversy, and to make and enter orders and judgments, and issue the writ of process of such court to enforce all such orders and judgments. The provisions of this act shall be liberally construed, so as to carry out the intent of this act, and of political parties, nominees, and others in proceedings under this act. Such proceedings may be reviewed and finally adjudicated by the Supreme Court of the

State, if application to such court is made within three days after the termination thereof by the Court in which the petition was filed, if the Supreme Court shall be willing to assume jurisdiction of the case.

**Sec. 32. All elections included in act.**—References to elections of any character in the penal sections herein shall be deemed to include all elections of any character whatsoever.

**Sec. 33. Penalty for violations of this act.**—Any person who shall violate any of the provisions of this act or in any manner interfere with or impede the due and proper carrying out of the same, whether by act of commission or by failure to perform any act or duty imposed or required for the proper administration of this act, or who shall knowingly permit or encourage another so to do, shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than twenty-five (\$25.00) dollars, nor more than one thousand (\$1,000.00) dollars, or shall be imprisoned in the county jail not less than one month nor more than one year, or any such person may be punished by both such fine and imprisonment.

**Sec. 34. District Attorney to investigate and prosecute charges.**—Upon the making and filing of an affidavit with the District Attorney to the effect that any member of the registration committee, or any other person or persons, have violated any of the provisions of this act, in which affidavit the nature of such violation and the fact with reference thereto shall be stated, it shall be the duty of the District Attorney to forthwith investigate, and if reasonable grounds appear therefor, prosecute the same.

**Sec. 35. Perjury.**—Any person who shall falsely and corruptly make any oath provided for by this act shall be deemed guilty of perjury and punished accordingly.

**Sec. 36. Irregularities not to constitute a defense.**—Irregularities or defects in the mode of calling, giving notice of, convening, holding or conducting any primary election authorized by law shall constitute no defense to a prosecution for a violation of this act. When an offense shall be committed in relation to any primary or other election, an indictment, information or complaint for such offense shall be sufficient, if it allege that such primary or election was authorized by law, without stating the call or notice of primary or election aforesaid, the names of the judges or clerks holding such primary or election, or the names of the persons voted for at such election. Judicial notice shall be taken of the holding of any primary or election.

**Sec. 37. Attorney General may file and prosecute complaints.**—The Attorney General of the State shall have equal power with District Attorneys to file and prosecute informations or complaints against any person for violating any provisions of this act or any election law of this State.

**Sec. 38. Funds collected paid to County Treasurer.**—All funds collected under the provisions of this act shall be paid to the County Treasurer of the county wherein the offense was committed for the benefit of the school fund of such county.

**Sec. 39. Act to apply only to cities of greater than five thousand inhabitants—Compensation of registrars and clerks.**—Section 1 to 38, hereof, both inclusive, shall apply only to election precincts included within the limits of cities with a greater population than five thousand inhabitants; *Provided*, That whenever any special election is held in any city of one hundred thousand inhabitants, or over, within six months of any other election at which a precinct registration has been had, registration of qualified electors for said election shall be made by appearing in person, only at the office of the city or county clerk, or at the office of

such officer or officers provided for the control and regulation of election or registration in any such city, beginning on the fourth Thursday before said election and continuing every day thereafter, excepting Sundays and legal holidays, to and including the tenth day before said election; said registration to take place on said days between the hours of 8 a. m. and 6 p. m. In all other elections in this State the registration of electors for general or primary elections shall be made as now provided by law for general elections, and the penalties provided for violation thereof shall apply to the registration of electors for primary elections. The registration board in the last mentioned class of election precincts shall sit for the registration of electors on the Tuesday one week before the primary election, and on the day before the primary election, and also said board shall sit for registration of electors on the Tuesday two weeks before the general election, and on the Monday next before the general election, and said board shall sit for the purpose of registering electors on the four days above mentioned, and no other days whatsoever, and the hours of registration on these four days shall be from 7 a. m. to 7 p. m. of each of said four days, which registration shall apply for both the primary and the general election. The pay of such registrars and clerks for services at primary registrations and elections shall be as now provided by law for general registrations and elections. [L. '13, p. 265, §1, amending L. '11, p. 369, §39.]

In connection with the above section see also Section 2167.

**Sec. 40. Act to be construed liberally.**—This act shall be liberally construed, so that all legally qualified electors may be registered, and that those who are not legal electors may be kept from such registration lists, and that fraud and corruption in elections may be prevented, and these purposes shall not be defeated by any informality or failure to comply with the provisions of this act as to any notice required by this act.

**Sec. 41. Repealing clause.**—All acts and parts of acts inconsistent with this act are hereby repealed. [L. '11, pages 336-369, inclusive, §§ 1 to 41, inclusive.]

#### F. JUDGES AND CLERKS.

Section	Section.
2217. Appointment of judges and clerks.	2223. Judges may administer oaths to each other and clerks.
2218. Appointment of judges and clerks.	2224. Vacancy in board, how filled.
2219. Clerks of election—How chosen.	2225. Voters elect judge, when—Powers of.
2220. Judges—Term of office—Oath.	2226. Fees of election officers.
2221. Oath of judges, how taken.	2227. Fees of judges and clerks of election.
2222. Oath of judges and clerks—Form.	2228. Fees of board of registry.

**2217. Appointment of judges and clerks of election.**—Judges and clerks of election shall be appointed for each election precinct in the manner following: In all counties of class "A" and of the first and second classes according to the classification of counties, made for the purpose of fees, during the first week of the session of the board of county commissioners for each such county in the state, which commences on the first Monday of October in each year, and in all other counties, according to such classification, during the first week of the session of the board for each such county which commences on the first Monday of July of each year, they shall appoint three qualified electors, two of whom shall be of opposite political parties, to act as judges of election in each election precinct, at all general and special elections, until their successors are appointed. On or before the last days of September and June respectively in each year, such political parties may each file with the clerk of the board of county commissioners a list, designating six or more persons in each election precinct in such county, together with their residence and occupations, which list shall be

subscribed by the chairman or secretary of the county organization of such political party, and an affidavit shall be added thereto, subscribed by the said chairman or secretary stating that he is such officer, or acting officer, duly appointed, and with authority to file such list on behalf of such party; that the names submitted are names of qualified electors of such precincts, respectively; that, according to the best knowledge and belief of such affiant, each of such persons named in such list is a creditable and trustworthy person; and the county commissioners shall appoint one of such persons in each precinct so recommended in each of said lists, as election judge. Whenever all or any of the political parties so entitled shall fail to file such list or lists, or whenever such list or lists when filed shall be incomplete, all such omissions shall be supplied and persons selected by the board of commissioners. Vacancies in the office of judge of election shall be filled as now provided by law. Clerks of election shall be selected as now provided by law. If any board of commissioners shall fail to comply with the provisions of this section, each and every member thereof shall be guilty of a misdemeanor, and shall be punished by a fine of not less than ten nor more than one hundred dollars for every offense, and the neglect and failure to designate any one judge properly suggested in accordance herewith, shall be a separate offense. In case of a conflict arising before such board, owing to different persons claiming the right to certify such list for any political party, the board shall have authority to decide between such lists; *Provided*, That they shall select only names included in a sworn list, as above mentioned; *And, provided, further*, That any person making a false statement in any such affidavit shall be guilty of perjury and punished as provided by law. The officers of all cities and towns, whether incorporated under general law or special charter, who may be by law authorized to appoint judges of election for any election therein, shall in like manner, upon like application, appoint the election judges for each precinct from different political parties in the manner aforesaid. Any such officer failing to comply with this provision shall be guilty of a misdemeanor, punishable as in the cases of county commissioners. [L. '91, p. 154, §23.]

**2218. Appointment of judges and clerks of election.**—At the several times designated by statute for the appointment of judges and clerks of election, the county commissioners of each county shall appoint three qualified electors, bona fide residents of the election precinct or district, to act as judges of election in each district or precinct in such county, two (2) at least of whom may be members of opposite political parties. Vacancies in the office of judge of election shall be filled by the board of county commissioners, unless such vacancy occur within three days prior to the day of the general election, when such vacancy may be filled by the electors present, as now provided by law; *Provided*, That no one who is the employer, agent, superintendent, manager or boss of a number of employees, or any company, corporation, or person, carrying on mining or manufacturing, or railroad operations in any precinct, shall be appointed a judge or clerk of election; *Provided, also*, That the clerks of election shall be each a bona fide member of a different political party from that to which his associate belongs. [L. '01, p. 171, §1.]

[See also section 2217.]

[See note, section 2269.]

**2219. Clerks of election—How chosen.**—The said judges of election shall choose two persons, having similar qualifications with themselves, to act as clerks of the election; and the said clerks of election may continue to act as such during the pleasure of the judges of the election. [G. S., §1174; G. L., §950.]

**2220. Judges—Term of office—Oath.**—All judges of election shall, on being appointed, hold their office for one (1) year, or until their successors are appointed, and shall serve at all special elections during their term of office, and they shall severally before entering upon their

duties as judges at any election take and subscribe the oath prescribed by law in such cases. [G. S., §1272; G. L., §1048.]

1. Under the statutes of the case in question, the board of trustees of the town have no authority to appoint judges of election upon the question of annexation. *Phillips vs. Corbin*, 8 Colo., App. 346, 521.

**2221. Oath of judges—How taken.**—Every judge of election or other person serving on such board of registry shall, before entering upon the duties of his office, take an oath to be administered by any justice of the peace or other officer present having power to administer oaths, faithfully to discharge the duties of registrar according to law and to the best of his skill and ability. If no such officer shall be present the oath may be administered by one judge or registrar to another. [G. S., §1264; G. L., §1040.]

**2222. Oath of judges and clerks—Form.**—Previous to any votes being taken the judges and clerks of election shall severally take an oath or affirmation in the following form, to wit: "I, A. B., do solemnly swear (or affirm) that I will perform the duties of judge (or clerk, as the case may be) according to law, and the best of my ability; that I will studiously endeavor to prevent fraud, deceit and abuse in conducting the same, and that I will not try to ascertain, nor will I disclose how any elector voted, if, in the discharge of my duties as judge (or clerk, as the case may be) knowledge shall come to me as to how any elector shall have voted, unless called upon to disclose the same before some court of justice." [G. S., §1176; G. L., §952.]

[Judges or others acting in registering must first be sworn, section 2169.]

**2223. Judges may administer oaths to each other and to clerks.**—In case there shall be no judge, justice of the peace, or other person qualified by law to administer an oath, present at the opening of the election, to administer the oath mentioned in the preceding section, it shall be lawful for the judges of election, and they are hereby empowered to administer the oaths or affirmations to each other, and to the clerks of the election, and the person administering such oaths or affirmations shall cause an entry thereof to be made and subscribed by him, and prefixed to the poll books. [G. S., §1177; G. L., §953.]

**2224. Vacancy in board, how filled.**—In cases of vacancy in the office of judge of election, or in the board of registry, at any time when they meet according to law, the vacancy may be filled by the election, by the qualified electors then present, of a qualified elector to serve as a member of such board of registry until the appearance of a judge of election duly appointed in and for such ward or precinct. [G. S., §1263; G. L., §1039.]

**2225. Voters elect judge, when—Powers of.**—If any person appointed to act as a judge of the election as aforesaid shall neglect or refuse to be sworn or affirmed, or to act in such capacity, the place of such person shall be filled by the votes of such qualified voters residing within the precinct as may then be present at the place of election, and the person or persons so elected to fill such vacancy or vacancies shall be and are hereby vested with the same power as if appointed by the board of county commissioners. [G. S., §1175; G. L., §951.]

**2226. Judges and clerks—compensation.**—All judges and clerks of election and necessary messengers, carrying election returns to the clerk of the county or election commissioners in cities of the first class and in cities of over 20,000 inhabitants operating under special charters where the pay of the same is not specified in such charters and outside of such cities in all counties where the County commissioners at a regular meeting so elect shall be paid at the rate of \$5.00 per day of twelve hours or fractional part thereof over six hours for time actually and necessarily spent in the discharge of election duties, the compensation so

received not to exceed \$10.00 in any case. Messengers shall be paid 10 cents per mile for each mile necessarily traveled in going to and returning from the offices of the County Clerk or election commission as the case may be. Immediately after the work of said judges, clerk and messengers shall be completed said judges shall certify to the county clerk the time each judge and clerk was employed, the miles traveled by each messenger and the compensation properly receivable therefor and thereupon the County Clerk or Election Commission shall make out his or its certificate stating the compensation to be allowed each judge, clerk and messenger and lay the same before the board or officer authorized to pay the sum so certified to be due and payable and the same shall be by such board or officer thereupon ordered paid and be paid.

In counties other than those where city and county lines are identical where the County Commissioners shall not at a regular meeting elect to pay the compensation specified in this section to judges, clerks and messengers such compensation shall be so provided in Section 2227 of the Revised Statutes of 1908. [L. '11, p. 334, §1.]

[For compensation of judges and clerks in cities and in the City and County of Denver, see Sections 1 and 2, act of 1919, below.]

**2227. Fees of judges and clerks of election.**—The fees of judges and clerks of election shall be as follows: Each judge and clerk of elections shall be allowed two dollars and fifty cents (\$2.50) per day for each day's service as such judge or clerk, to be paid out of the county treasury. Each messenger carrying election returns to the clerk of said county shall be entitled to the same per diem as the judges and clerks, and ten (10) cents per mile for the distance necessarily traveled in going to and returning from the office of said county clerk. [G. S., §1422; G. L., §1167.]

**2228. Fees of board of registry.**—The members of said board of registry shall receive the same compensation as allowed by law to judges of elections, for every day actually employed in the making and completing of the registry. [G. S., §1265; G. L., §1041.]

**Section 1. Judges and clerks—Compensation.**—That in all cities, or cities and counties in this state, judges and clerks of election shall be paid for their services as follows: In precincts where there are no counting judges, the judges and clerks of election shall each be paid the sum of ten dollars (\$10.00) for all services performed by them as such judges and clerks. In precincts wherein both receiving and counting judges are authorized by, and act in accordance with law, the receiving judges and clerks shall each be paid the sum of five dollars (\$5.00), and the counting judges and clerks the sum of ten dollars (\$10.00) each for services at such elections. [L. 1919, p. 404.]

**Sec. 2.** In precincts where there is one ballot box, the judges of election shall select one judge and one clerk of opposite political faith, and in precincts where there are two or more ballot boxes said judges shall select from the judges and clerks three (3) persons, two (2) of whom shall be of opposite political faith, to deliver the returns and ballot boxes in accordance with law, and each of the persons so selected who shall deliver or assist in delivering the ballot boxes and election returns in accordance with law, shall be paid for the performance of such service the sum of two dollars and fifty cents (\$2.50). [L. 1919, p. 404.]

#### APPOINTMENT OF JUDGES—COUNTING JUDGES.

**Section 1. Judges—By whom appointed—Receiving and counting judges—No counting judges at primary.**—The board of county commissioners where the appointing of judges of election rests with the county commissioners, the election commission in the City and County of Denver, and the clerk and recorder of the county where the appointment of judges of election devolves upon said officer, or other authority charged with the appointment of election judges shall, in all precincts where at

the last preceding general election there were cast 200 or more votes, appoint three judges of election to superintend the casting of the ballots at the next ensuing general election to be known as receiving judges and three judges to canvass and make returns of the ballots cast at said election to be known as counting judges;

*Provided*, That nothing in this act contained shall require or permit the appointment of counting judges for primary elections. [L. '15, p. 225; amending L. '13.]

**Sec. 2. Appointed as provided by law.**—In all precincts not provided for in Section 1 of this Act, judges of election shall be appointed in the same manner and the same number as now provided by law. [L. '13, p. 260.]

**Sec. 3. Appointed from two political parties.**—The judges of election as provided for in section 1 of this act shall be appointed as now provided by law from the two political parties casting the highest and next highest number of votes at the last general election, the number of votes cast for each party to be determined by the average number of votes cast for Governor, Lieutenant Governor, Treasurer, Auditor, Secretary of State, Attorney General and Superintendent of Schools. [L. '15, p. 226, amending L. '13.]

**Sec. 4. Board of Registration.**—The receiving judges shall be the Board of Registration as now provided by law and shall meet at the same time and organize as now required by law. [L. '13, p. 260.]

**Sec. 5. Counting judges meet—Clerks—Vacancies.**—The counting judges shall meet at the voting place at 8:00 o'clock a. m. on the day of election and organize and select two clerks in the same manner and under the same regulations as now required by law, for organization and selection of clerks by judges of election, and vacancies in the board of counting judges shall be filled as now provided by law where vacancies exist in boards of election judges. [L. '15, p. 226, amending L. '13.]

**Sec. 6. Ballot boxes.**—The Board of County Commissioners in all counties, except Denver county and the Election Commission in the City and County of Denver, shall provide the judges of election with two ballot boxes, where two sets of judges are appointed. [L. '13, p. 260.]

**Sec. 7. Counting ballots.**—At 8:00 o'clock a. m. or as soon thereafter as the counting judges may apply for the same, the receiving judges shall deliver to said counting judges the ballot box containing all ballots that have been cast up to that time, and said receiving judges shall then proceed to use the other ballot box furnished for that purpose. Whenever the counting judges have canvassed the votes in a ballot box, they shall return the empty ballot box to the receiving judges and exchange for the box containing ballots cast since taking possession of the first ballot box, they shall continue to exchange ballot boxes, in the same manner during the day until the polls are closed, and all ballots have been counted, they shall then certify to the casting of ballots and the returns as now provided by law. The receiving judges shall certify to all matters pertaining to casting of ballots, and the counting judges shall certify to all matters pertaining to the canvass and counting of votes. [L. '13, p. 261.]

**Sec. 8. Checking votes in ballot boxes.**—Whenever such exchange of ballot boxes is made as described in Section seven of this Act the receiving judges shall furnish to the counting judges a statement signed by the three receiving judges showing the number of ballots that are to be found in each ballot box as indicated by the poll lists. The counting judges shall first count the number of ballots in each box. If the ballots shall be found to exceed the number entered on each of the poll lists as shown by said statement of the receiving judges, the counting judges shall then examine the official endorsements upon the outside of the ballots without opening the same, and if, in the unanimous opinion

of the judges, any one or more of the ballots in excess of the number on the poll lists be deemed not to bear the proper official endorsement they shall be kept separate and a separate record and return of the votes in such ballots shall be made under the head of "excess ballots." The counting judges shall then proceed to count as under existing laws. [L. '13, p. 261.]

**Sec. 9. Watchers of count—Oath of judges and watchers—Divulging count misdemeanor.**—Watchers may be appointed to be present and watch the counting of ballots as now provided by law. Such counting judges and their clerks and watchers must in addition to the oath now prescribed for judges, clerks and watchers take an oath administered by one of the said counting judges, who are hereby empowered to administer oaths that they will not in any manner make known to any one the result of the votes as they are being counted until the polls have closed, *Provided*, That all other persons shall be excluded from the place where such counting and canvassing is being carried on until the close of the polls. And any such judge, clerk or watcher violating any of the provisions of this act shall be guilty of a misdemeanor and, upon conviction thereof shall be liable to a fine of not more than \$500 or by imprisonment in the county jail of not more than six months, or by both said fine and imprisonment, and any person so convicted shall be disfranchised for five years thereafter. [L. '15, p. 226, amending L. '13.]

**Sec. 10. Separate room for counting judges.**—The County Commissioners or Election Commission may provide a separate room or building for the judges of election appointed to canvass the returns. The County Commissioners or Election Commission may provide a separate room or building for the counting judges, but whenever ballot boxes are moved from one room or building to another they shall be under the constant observation of at least one of said counting judges. [L. '13, p. 262.]

#### G. POLLING PLACES AND BALLOT BOXES.

Section	Section
2229. County commissioners establish precincts and polling places.	2232. County commissioners provide ballot boxes—How kept—Keys
2230. Judges may change polling places—When.	2233. Polling places and compartments.
2231. Proclamation and notice of change of polling place.	2234. Cards of instruction.

**2229. County commissioners establish precincts and polling places.**—County Commissioners of the several counties in this state are hereby required to divide their respective counties into as many election precincts for all general and special elections as they may deem expedient for the convenience of voters of said county, and shall designate the house or place in each precinct or ward at which elections are to be holden, and the precincts and places of holding elections thus established shall so remain until changed by the board of commissioners; *Provided*, That the board of county commissioners shall establish at least one election precinct for every five hundred registered voters, as shown by the registry list of the respective counties at the last general election, and shall every year, if necessary, increase the number of election precincts as the number of registered voters shall be increased on said registry list, so that at least one election precinct for every three hundred registered voters may be constituted; *And, provided*, That it shall be the duty of the county commissioners at any time to change any place of holding elections upon a petition of a majority of the voters residing within said precinct; *And, provided, further*, That the precincts and wards established, and the places designated in which to hold elections at the time of the taking effect of this act, shall so remain until changed; *And, provided, further*, That no new precincts shall be established, or polling places changed at a later date than thirty days previous to any election. [G. S., §1171; L. '83, p. 182, §1; amending G. L., §947.]

[See also sections 2233 and 2245.]

**2230. Judges may change polling place—When.**—Whenever it shall become impossible or inconvenient to hold an election at the place designated therefor, the judges of election, after having assembled at or as near as practicable to such place, and before receiving any vote, may adjourn to the nearest convenient place for holding the election, and at such adjourned place forthwith proceed with the election. [G. S., §1178; G. L., §954.]

**2231. Proclamation and notice of change of polling place.**—Upon adjourning any election, as provided in the preceding section, the judges shall cause proclamation thereof to be made, and shall station a constable or some other proper person at the place where the adjournment was made from to notify all electors arriving at such place of adjournment and place to which it was made. [G. S., §1179; G. L., §955.]

**2232. County commissioners provide ballot boxes—How Kept—Keys.**—The county commissioners of each county shall provide a ballot box at the expense of the county for each place of voting, which box shall be made of glass, to be kept by the county clerk and recorder of each county and by them delivered over to their successors in office. Each of said ballot boxes shall be circular in form, with a small opening at the top thereof, and enclosed in a square wooden frame with a lid, to be fastened by three locks, no two of which can be opened by the same key; one of said keys shall be kept by each of the judges of the election last appointed, to be by them delivered to their successors in office. Should either of said judges die or remove from their precinct, meantime, the key held by them shall be surrendered to the county clerk and recorder, to be by him kept and delivered to the successor of such judge of election. The said ballot boxes shall be by the clerk and recorder of the respective counties delivered to the judges of election within three days immediately preceding any general or special election, to be by him used and returned as hereinafter provided. [G. S., §1173; L. '83, p. 183, §2, amending G. L., §949.]

**2233. Polling places and compartments.**—All officers upon whom is imposed by law the duty of designating polling places, shall provide in each polling place designated by them, a sufficient number of voting booths, or compartments, which shall be furnished with such supplies and conveniences, including shelves, pens, penholders, ink and blotting paper, as will enable the voter to prepare his ballot for voting; and in which voters may prepare their ballots screened from observation, as to the manner in which they do so; and a guard rail shall be so constructed and placed that only such persons as are inside such rail can approach within six feet of the ballot box and of such voting booths and compartments. The arrangement shall be such that the voting booth or compartment can only be reached by passing within such guard rail. And both they and the ballot boxes shall be in plain view of the election officers and of those outside the guard rail. Each booth or compartment shall be at least three feet square, and shall contain a shelf, which shall be at least one foot wide, extending across one side of the booth or compartment at a convenient height for writing, and shall be so arranged that the voter can prepare his ballot screened from observation. No person other than the election officers and the watchers provided by law, and those admitted for the purpose of voting, as hereinafter provided, shall be permitted within such guard rail, except by authority of the judges of election, and then only when necessary to keep order and enforce the law. The number of such voting booths or compartments shall not be less than one for every fifty voters who voted at the last election in the district. The officers who are charged with the duty of providing voting booths or compartments shall also furnish for each polling place in their respective towns and cities, a ballot box, which shall be large enough to properly receive and hold the



**X. FORM, PREPARATION AND DISTRIBUTION OF BALLOTS.**

Section	Section
2235. Form of ballot.	2240. Correction of errors in ballots—Proceedings in case of controversy.
2236. Ballot shall not contain emblem — Straight and scratched ballots.	2241. Preparation of ballots.
2237. Black corner on ballot—Judges number ballots.	2242. Number of ballots to be provided.
2238. Failure of official to number ballots—Penalty.	2243. Distribution of ballots.
2239. Penalty for omitting to print black corner.	2244. Substitute ballots.
	2245. Ballots printed and distributed at public expense.

**2235. Form of ballot.**—Every ballot, intended for the use of voters, shall contain the names of all candidates for offices to be balloted for at that election, whose nominations have been duly made and accepted as herein provided, and who have not died or withdrawn, and shall contain no other names of persons except that, in case of electors for president and vice-president of the United States, the names of the candidates for president and vice-president shall be added to the party or political designation; the name of each person nominated shall be printed upon the ballot in but one place, but there shall be added opposite to the name of each person nominated the party or parties or political designation, expressing in not more than three words for one party, as specified in each of the certificates of nomination nominating him for the office. The names of the candidates for each office shall be arranged under the designation of the office, in alphabetical order, according to surnames, except that the names of the candidates for the offices of electors of president and vice-president of the United States shall be arranged in groups, as presented in the several certificates of nomination. There shall be left at the end of the list of candidates for each different office as many blank spaces as there are persons to be elected to such office, in which the elector may write the name of any person not printed on the ballot for whom he desires to vote as a candidate for such office. Whenever the approval of a constitutional amendment or other question is submitted to the vote of the people, such questions shall be printed upon the ballot after the lists of candidates. The ballots shall be so printed as to give to each voter a clear opportunity to designate by a cross mark (X) in a sufficient margin at the right of the name of each candidate, his choice of candidates and his answer to the questions submitted, and on the ballot may be printed such words as will aid the voter to do this, as "Vote for one," "Vote for three," "If you have not voted a straight ticket above, place a cross mark (X) with ink opposite each name you wish to vote for in the blank space left for that purpose," and the like. It shall be lawful to designate the political party or nominating committee by which each list of candidates is nominated, by an appropriate emblem or design, such as a flag, eagle, rooster or other device, as may be set forth in the certificate of nomination; *Provided*, No two sets of nominations shall use or have the same device, and each political party or nominating committee shall have the prior right to use the device used by it at the last similar election. When any political party or nominating committee in its certificate of nomination certifies any such emblem or device, the name or title of such party or nominating committee (in not more than three words), together with such emblem, or device, opposite thereto, shall be placed in a line at the top of the ballot with a blank square opposite thereto, in which a cross mark may be placed by the voter: All such party designations and emblems so certified shall be placed in parallel lines, one under another, on the top part of the ballot, above the list of candidates. Proper words of instruction shall also be inserted, such as these: "To vote a straight ticket, place a cross mark (X) with ink in the square opposite your party emblem." It shall be lawful for a voter to make a cross mark in any such square following any such party name and emblem, and such mark shall indicate and be counted as a vote for each and every candidate on the ballot nominated by the party or committee after whose name and emblem the mark is so placed. The extreme top part of each ballot, above the portion which

contains the names of the candidates to be voted for, and the party and committee names and emblems, shall be divided by two perforated lines, into two spaces, each of which shall be not less than an inch in width, the top portion being known as the stub, and the next portion as the duplicate stub; upon each of said stubs nothing shall be printed except the number of the ballot, and the same number shall be printed up on both stubs. Stubs and duplicate stubs of ballots shall both be numbered consecutively by numbers thereon. All ballots shall be uniform and of sufficient length and width to allow for the names of candidates and officers to be printed in clear, plain type, as herein required, with a space of at least one-half inch between the different columns on said ballot. On the back of each ballot shall be printed, in capital letters, in two lines, pica gothic, or type not smaller in size, the endorsement, "Official ballot for.....," and after the word "for" shall follow the designation of the election precinct or political division, for which the ballot is prepared, and the date of the election, and a fac simile of the signature of the clerk who has caused the ballot to be printed. The ballot shall contain no caption, or other endorsement, except as in this section provided. Each county, city or town clerk shall use precisely the same quality and tint of paper and kind of type, and quality and tint of plain black ink for all ballots furnished by him at one election. Whenever candidates are to be voted for only by the voters of a particular district, county, city, town or other political division, the names of such candidates shall not be printed on any other ballot than those provided for use in such district, county, city, town or political division respectively. The ballots shall be of such form, and the endorsements thereon so printed, that they may be folded in such a way that when so folded the whole endorsement shall be visible, and the contents of the ballot shall not be exposed. There shall be but one ballot box at each polling place for receiving ballots cast for candidates for office. [L. '94, p. 61, §2; amending L. '91, p. 151, §18.]

[Section 2235 must be considered with section 2236. See Headless Ballot Act.]

1. A ballot cast by a qualified elector, at an election held according to law, and at the time and place provided by law, should be counted if, therefrom, the intent of the voter can be ascertained with reasonable certainty, unless this is forbidden by some positive provision of the statute. *Baldwin vs. Wade*, 50 Colo., 109.

2. In the official ballot of a municipal election the name of Baldwin was printed as a candidate for mayor. Below this, and in the same space, the voter wrote the name of Wade. In the space left for this purpose, he placed a cross, the intersection of names of three persons for whom he desired to vote as trustees, placing the name of the first of these in the space occupied by the last printed name, and with a cross at the right of it. Considering that the voter, if he desired to vote for Baldwin, had no occasion to insert the name of Wade, it was held that the ballot must be counted for Wade. *Baldwin vs. Wade*, 50 Colo., 109.

3. Another voter obliterated the printed name of Baldwin with ink, wrote the name of Wade above it, and placed a cross at the right. Held, that the ballot should be counted for Wade. *Baldwin vs. Wade*, 50 Colo., 109.

4. Another ballot was in perfect form, but the name of the person voted for and the cross were written with an indelible pencil. Held, that this ballot should also be counted for Wade. *Baldwin vs. Wade*, 50 Colo., 109.

5. Under Sections 2235, 2259 of the Revised Statutes and Section 1 of the Headless Ballot Act (Laws 1913, p. 685) the voter is required to express his choice by making an X in the space left for the purpose, opposite the name of the candidate for whom he desires to vote. *Riley vs. Trainor*, 57 Colo., 155.

6. There being three candidates for the office in question, sundry voters wrote in the spaces left for this purpose, under the word indicating the office, the names of three persons, among them the name of the contestor. No cross was set opposite the contestor's name upon any of these ballots. Held, they were not to be counted for contestor. *Baldwin vs. Wade*, 50 Colo., 107, distinguished. *Riley vs. Trainor*, 57 Colo., 155.

7. When public officers are entrusted with the preparation of ballots and ample provision is made for the correction of errors before election, it is too late after they have been voted, as a general rule, to interpose objections to the ballots for mere irregularities in the printing thereof. *Allen vs. Glynn*, 17 Colo., 338.

8. All provisions of laws relating to elections are mandatory in the sense that they impose a duty upon those who come within their terms. It does not follow, however, that an election should be invalidated because of every departure on the part of public officers from the terms of the statute. *Allen vs. Glynn*, 17 Colo., 338.

9. Where the law provides severe penalties against county clerks for violation of its provisions, failure on the part of a clerk to make proper publication of nominations, or error in printing the name of candidates under the wrong party device, will not necessarily invalidate the ballots. *Allen vs. Glynn*, 17 Colo., 338.

10. This section is referred to in *Schafer vs. Whipple*, 25 Colo., 400, 2, 3 and 4.

11. If the county clerk makes a mistake in designating a candidate on the ballot as the nominee of a political party represented by an emblem, and the opposing candidate having notice of such mistake in time to have the mistake corrected, he will not be permitted to lie by and allow voters to be misled thereby, and afterwards take advantage of such defect to defeat the expressed will of a majority of the voters. *Dickinson vs. Freed*, 25 Colo., 302.

**2236. Ballot shall not contain emblem—Straight and scratched tickets.**—From and after the passage of this act no emblem, device or party designation shall be used on the official ballot at any election in this state by which a voter may vote for more than one candidate by placing a single cross mark (X) on the ballot; *Provided*, That across the head of the ballot, and just above the list of nominations, shall be printed the words, "I hereby vote a straight.....ticket, except where I have marked opposite the name of some other candidate," and any voter desiring to vote a straight ticket may write within the blank space above provided for, the name of the party whose ticket he may wish to vote, and any ballot so cast shall be counted for all the nominees upon said ticket, except when the voter has marked opposite the name or names of any individual candidate of some other party, which individual marks opposite such individual candidate shall count for them, and shall not be counted for the candidates for the same office upon the ticket whose party name the voter has so filled in the blank at the head of the ticket. In case there are two or more candidates upon each ticket for office bearing the same name, when the voter fills in the party name, and also marks opposite a particular candidate upon some other ticket for that office, he shall draw a line through the name of the candidate upon the ticket he has filled in the party name of, which he does not wish counted by reason of his having voted for a candidate upon an opposite ticket for that office. In case the voter marks opposite the name of a candidate where there is more than one candidate upon each ticket for offices bearing the same name, and does not draw a line through the name of any candidate upon the ticket he has filled in the party name of, such special mark opposite the individual candidate shall not be counted. [L. '99, p. 177, §1.]

[Section 2236 must be considered with section 2235.]

1. This section is referred to in *Baldwin vs. Wade*, 50 Colo., 112. (See notes 1 to 4 inclusive under Section 2235.)

2. Under the statute (Revised Statutes, Section 2236) neither the judges of the election nor the courts are authorized to go beyond what the voter has set down upon his ballot to ascertain his intention. *Wiley vs. McDowell*, 55 Colo., 236.

3. It is not to be said that because different party organizations, bearing different names and presenting different tickets were understood by the voters to mean the same party, one voting the straight ticket to one of these organizations, intended to vote for a candidate named in the ticket of another of such organizations, for an office for which no candidate was named on the ballot voted. *Wiley vs. McDowell*, 55 Colo., 236.

4. The voter must substantially observe the requirements of the statute. *Bromley vs. Hallock*, 57 Colorado., 148.

5. Where the voter writes in the blank above the list of nominations, the name of a particular party, he indicates an intention to vote for all the candidates of that party named upon the ballot, unless, in the way provided by the statute, he manifests a different intention, i. e., by inserting an X opposite the name of an opposing candidate, or if there are two or more candidates for the same office, by drawing a line through the name of those, or the one, for whom he does not desire to vote. *Bromley vs. Hallock*, 57 Colo., 148.

6. This section is referred to in *Nicholls vs. Barrick*, 27 Colo., 432, 436.

**2237. Black corner on ballot—Judges number ballots.**—A space two inches square in the upper left hand corner, immediately below the perforated lines, on the face of all ballots, used or to be used at any election hereafter held, shall be made black; and it shall be the duty of all

election judges or clerks to write the number of said ballot on the opposite side of said black square and turn and paste down the corner thereof in the manner as is now provided by law. [L. '01, p. 170, §1.]

**2238. Failure of officials to number ballots—Penalty.**—Any election judge or clerk who shall wilfully violate the provisions of this act shall be punished by a fine of not less than fifty nor more than five hundred dollars, or by imprisonment in the county jail for a term not less than three months, nor more than one year, or by both such fine and imprisonment. [L. '01, p. 170, §2.]

**2239. Penalty for omitting to print black corner.**—Any county clerk who shall print any ballot without complying with the provisions of this act shall be guilty of a misdemeanor and punished accordingly. [L. '01, p. 171, §3.]

[This act comprises sections 2237 to 2239.]

1. See notes 1 to 4 and 7 to 9, inclusive, under Section 2235.

**2240. Correction of errors in ballots—Proceeding in case of controversy.**—Whenever it shall appear by affidavit of a candidate or his agent that an error or omission has occurred in the publication of the names or description of the candidates nominated for office, or in the printing of the sample or official ballots, the district or county court, or a judge thereof, either in term time or vacation, may, upon petition of such candidate, or his agent, by order require the county clerk, city clerk, or town clerk charged with the duty in respect to which an error or omission has occurred, to forthwith correct such error, or to forthwith show cause why such error should not be corrected. Costs, including a reasonable attorney's fee, may be taxed, in the discretion of such court or judge, against either party. The county clerk, city clerk, or town clerk shall also, on their own motion, correct without delay any error in all ballots which he or they may discover, or which shall be brought to his or their attention, and which can be corrected without interfering with the timely distribution of the ballots as herein provided. Whenever any controversy shall arise between any official charged with any duty or function under this act, and any candidate, or the officers or representatives of any political party, or persons who have made nominations, upon the filing of a petition by any such official or persons, setting forth in concise form the nature of such controversy and the relief sought, which petition shall be under oath, it shall be the duty of such court, or the judge thereof in vacation, to issue an order commanding the respondent in such petition to be and appear before the court or judge, and answer under oath to such petition; and it shall be the duty of the court or judge to summarily hear and dispose of any such issues, with a view of obtaining a substantial compliance with the provisions of this act by the parties to such controversy, and to make and enter orders and judgments, and issue the writ or process of such court to enforce all such orders and judgments. The provisions of this act shall be liberally construed, so as to carry out the intent of this act, and of political parties, nominees and others in proceedings under this act. [L. '94, p. 64, §4; amending L. '91, p. 152, §20.]

1. See notes 1 to 4 and 7 to 9, inclusive, under Section 2235.
2. This section is referred to in *Smith vs. Harris*, 18 Colo., 274, 278.

**2241. Preparation of ballots.**—Except as in this act otherwise provided, it shall be the duty of the county clerk of each county to provide printed ballots for every election of public officers in which the voters or any of the voters within the county participate, and to cause to be printed on the ballot the name of every candidate, whose nomination has been certified to or filed with the county clerk in the manner provided for in this act. It shall be the duty of the clerk of any city or town to provide printed ballots for every election of public officers in which the voters, or any of the voters, of such city or town participate, and to cause

to be printed on the ballot the name of every candidate whose nomination has been certified to or filed with such city or town clerk in the manner provided for in this act. Sample ballots printed upon paper of a different color from the official ballots, but in the form of those to be used on election day, each containing the names of the candidates which are to be printed upon the appropriate official ballot, shall be printed and in the possession of the county clerk or other officers charged with the duty of preparing such ballots, seven days before the day of election, subject to public inspection. The official ballots shall be printed and in the possession of the county clerk or city or town clerk at least four days before election, and subject, also, to inspection by the candidates and their agents. Sample ballots shall be delivered to the election officers and posted with the cards of instruction provided in section 30. [L. '91, p. 150, §17.]

[Section 30 above referred to is section 2234.]

1. See notes 1 to 4 and 7 to 9, inclusive, under Section 2235.
2. This section referred to in *Allen vs. Glynn*, 17 Colo., 338, 355, 362; in *Smith vs. Harris*, 18 Colo., 274, 278; in *Capps vs. Krier*, 25 Colo., 474, 479.

**2242. Number of ballots furnished to each precinct.**—The county clerk of each county and the city clerk of each city, and the town clerk of each town when charged by this act with the duty of printing and preparing ballots shall provide for each election precinct in a county, city or town sixty-five ballots for every fifty or fraction of fifty voters registered at the last preceding election in the election precinct. If there is no registry in the precinct, such ballots shall be provided to the number of sixty-five of each kind for every fifty or fraction of fifty who voted at the last preceding election in such precinct. When a precinct shall be divided, or the boundaries changed, the county clerk or city clerk or town clerk, as the case may be, must ascertain as nearly as possible the number of voters in the new precinct or precincts and provide therefor a sufficient number of ballots in the above proportion. [L. '15, p. 227.]

**2243. Distribution of ballots.**—The county clerks of the various counties of the state, and the city and town clerks, as the case may be, shall prior to an election, cause to be delivered, at the expense of the county, city or town to the election judges in the respective precincts the proper number of ballots provided for the use of the voters at such election in such precinct. The same shall be sent in two sealed packages for each election precinct in said county, city or town, with the marks on the outside of each, clearly stating the election precinct and polling place for which it is intended, together with the number of ballots enclosed. Each of such packages shall contain one-half of the number of ballots intended for such election precinct. Such packages shall be delivered between the Saturday noon and the Monday noon before election day, one to each of the two judges of election in each precinct, who are members of the political parties which cast the largest and next largest number of votes at the last general state election. Receipts for ballots thus delivered shall be given by the election judges who receive them, and filed with the clerk of the county, city or town, as the case may be, who shall also keep a record of the time when, and the manner in which each of said packages was sent and delivered. The several election judges receiving such packages shall, at the opening of the polls on election day, produce the same, with the seals unbroken, in the proper polling place, and shall, in the presence of all three judges, open the said packages. [L. '91, p. 153, §21.]

**2244. Substitute ballots.**—If the ballots to be furnished to any election judges, as herein provided, shall not be delivered at the time above mentioned, or if after delivery they shall be destroyed or stolen, it shall be the duty of the said clerk of the county, city or town to cause other ballots to be prepared, as nearly in the form prescribed as practicable, with the word "Substitute," printed in brackets, immediately under the

fac simile signature of the clerk preparing such ballots, and upon receipt of ballots thus prepared from such clerk, accompanied by a statement under oath that the same have been so prepared and furnished by him, and that the original ballots have so failed to be received, or have been destroyed or stolen, the election judges shall cause the ballots so substituted to be used at the election. If from any cause none of the official ballots nor substitute ballots prepared by the county, or city or town clerk, as herein prescribed, shall be ready for distribution at any polling place, or if the supply of ballots shall be exhausted before the polls are closed, unofficial ballots, printed or written, made as nearly as possible in the form of the official ballots, may be used until substitutes prepared by the clerk, as provided in this section, can be printed and delivered. [L. '91, p. 153, §22.]

1. This section is referred to in *Baldwin vs. Wade*, 50 Colo., 109, 111.

**2245. Ballots printed and distributed at public expense.**—All ballots cast in elections for public officers or for the decision of any question submitted to electors, within this state, shall be printed and distributed at public expense. The printing of ballots and cards of instruction for the voters in each county, and the delivery of the same to the election officers as hereinafter provided, shall be a county charge, the payment of which shall be provided for in the same manner as the payment of other county expenses, but the expense of printing and delivering ballots and cards of instruction to be used in municipal elections shall be a charge on the city or town in which such election shall be held. [L. '91, p. 143, §1.]

### I. HEADLESS BALLOT.

**Section 1. Form of ballot—No emblem.**—That from and after the adoption of this act no emblem, device or political party organization designation shall be used on the official ballot at any election, by which a voter may vote for more than one candidate by placing a single cross-mark on the ballot or by writing therein any political party or organization name or other name or political designation. The official printed paper ballot used at elections shall be arranged and prepared as now provided by law, except across the head or top of the ballot shall be printed only the following words: "To vote for a person, make a cross mark (X) in the square at the right of his name." And in order to vote for any candidate whose name appears upon such ballot the voter shall place a cross-mark (X) in the square at the right of his name.

See notes 5 and 6 under Section 2235.

**Sec. 2. Arrangement of voting machines—Instructions.**—If any ballot machine or other mechanical device is permitted to be used in any election precinct at any election in place of the printed paper ballot, the arrangement of the offices and candidates therefor upon such ballot machine shall be identical with such arrangement as now provided by law and as printed upon the printed paper official ballots used at elections, and such voting machine or mechanical device shall not be permitted to enable the voter to vote a straight political party or organization ticket or for more than one person by the operation of any one counter, knob, crank or movement of a single device, but shall be so constructed, arranged and manipulated as to require the voter to vote for each candidate for public office for whom he desires to vote by the operation by the voter of a single counter, knob, crank or other device after the name of each candidate, which shall be simply and safely manipulated to vote singly for each of such candidates.

*Provided*, That nothing herein shall be construed to forbid printing after the name of each candidate the name of the political party upon whose party ticket such candidate may have been nominated for such office; *And, provided, further*, That it shall be the duty of the officials at any election preparing and distributing ballots therefor to have a

brief statement of instructions printed and placed at the head or across the top of such ballot machine in plain view instructing the voter how to manipulate the counters or knobs separately after the names of the candidates respectively in order to vote singly for such candidates.

**Sec. 3. Judges assisting voters—Perjury.**—No election official or other person shall be allowed to enter any election booth for the purpose of assisting the voter in preparing his ballot, or for any other purpose while the booth is occupied by a voter, except in case of absolute and total physical disability on the part of the voter that makes it impossible for the voter to mark his ballot or to operate such machine. Then and in that case the voter shall first state under oath his physical disability. Said writing shall be prepared and the oath administered by an election judge. After the total physical disability has been stated in writing and duly sworn to, two judges, or a judge and clerk, each of opposite political faith, shall then accompany the voter into the booth and mark his ballot or operate such machine as he (the voter) shall indicate. A notation shall be made in the poll books opposite the name of each voter thus assisted, stating that the voter has been assisted. Said oath shall be retained by the election officials and filed with their returns at the time the election returns are made, and said oath shall be held by the election officials with whom so filed for the inspection of any person during regular office hours.

Any person who shall falsely make oath that he is totally physically disabled as herein defined, shall be guilty of perjury and punished accordingly, and any person who shall administer said oath, knowing the same to be false, shall be guilty of subornation of perjury and punished accordingly.

**Sec. 4. Primaries.**—Nothing herein contained shall be construed to refer to the method or methods of voting at primary elections, which method or methods shall be as provided by those provisions of the statutes of the state concerning the method or methods of voting at primary elections.

**Sec. 5. Penalty for violation.**—Any person, firm or corporation violating any of the provisions of this Act shall be deemed guilty of a misdemeanor, except as otherwise herein provided, and upon conviction thereof, shall be subject to a fine of not less than Five Hundred (\$500.00) Dollars, or imprisonment in the county jail not less than six months, or both.

[L. '13, pp. 685-687, adopted by Initiative Petition, Nov. 5, 1912.]

### J. CONDUCT OF ELECTIONS.

Section	Section
2246. Hours of voting.	2259. Preparation of ballot by voter—Manner of voting.
2247. Polls kept open till evening.	2260. Refusal to receive legal vote—Penalty.
2248. Judges open ballot box before proclamation to open polls.	2261. Assistance to illiterate and disabled voters.
2249. No vote received unless name registered.	2262. Spoiled ballots—Record of vote.
2250. Rules for judges in admitting votes.	2263. Count of votes.
2251. Clerks keep poll list—Form.	2264. Clerk keep tally lists.
2252. Preparation of ballot by election officials—Watchers and challengers.	2265. Imperfect or defective ballots.
2253. Grounds for challenge—Questions to challenged voter.	2266. Marking imperfectly names of candidates voted for.
2254. Oath of challenged voter.	2267. Judges' certificate—Form—Signatures—Sealing—Returning—Penalty.
2255. Refusal to answer—Vote rejected.	2268. Watchers.
2256. Refusal to take oath—Vote rejected.	2269. Penalty for interference with watcher.
2257. Clerks write "Sworn" on poll book.	2270. Judges designate and appoint constables.
2258. Duty of judge to challenge.	2271. Fees of constables—Special constables.

**2246. Hours of voting.**—At all elections held under this act, the polls shall be opened at seven o'clock in the morning, and continue open until seven o'clock in the evening of the same day; *Provided, however,* That if a full board of judges of election shall not attend at the hour of seven o'clock in the morning, and it shall be necessary for the electors present to appoint judges to conduct the election as provided by law, the election may in that event commence at any hour before the time for closing the polls shall arrive, as the case may require. Upon the opening of the polls, proclamation shall be made by one of the clerks, and thirty minutes before the closing of the polls proclamation shall be made, in like manner, that the polls will close in thirty minutes. [L. '91, p. 165, §41.]

**2247. Polls kept open till evening.**—The polls at any election shall not be closed after once being opened, until they are finally closed in the evening. [G. S., §§1197; G. L., §973.]

**2248. Judges open ballot box before proclamation to open polls.**—It shall be the duty of the judges of election, immediately before proclamation is made of the opening of the polls, to open the ballot box in the presence of the people there assembled and turn it upside down so as to empty it of everything that may be in it, and then lock it securely; and it shall not be reopened until for the purpose of counting the ballots therein at the close of the election. [G. S., §1193; G. L., §969.]

**2249. No vote received unless name registered.**—No vote shall be received at any election unless the name of the person offering to vote shall be found on the said certified registry list. [G. S., §1262; G. L., §1038.]

1. **Election Without Registration of the Voters,** or attempt at registration, is void. The rule applied to an election of trustees of a town. *Fish vs. Kugel*, 63 Colo., 101.

**2250. Rules for judges in admitting votes.**—The judges of election in determining the residence of a person offering to vote, shall be governed by the following rules, so far as they may be applicable:

*First*—That place shall be considered and held to be the residence of a person in which his habitation is fixed, and to which, whenever he is absent, he has the intention of returning.

*Second*—A person shall not be considered or held to have lost his residence who shall leave his home and go into another state, territory or county of this state, for temporary purposes merely, with an intention of returning.

*Third*—A person shall not be considered or held to have gained a residence in this state, or in any county in this state, when retaining his home or domicile elsewhere.

*Fourth*—If a person remove to any other state, or to any of the territories, with the intention of making it his permanent residence, he shall be considered and held to have lost his residence in this state.

*Fifth*—If a person remove from one county, precinct or ward in this state to any other county, precinct or ward in this state, with the intention of making it his permanent residence, he shall be considered and held to have lost his residence in the county, precinct or ward from which he removed. [G. S., §1186; G. L., §962.]

**2251. Clerks keep poll list—Form.**—Each clerk of the election shall keep a poll list which shall contain one column headed, "Names of voters," and one column headed, "Number on ballot." The name and the number on the ballot of each elector voting shall be entered by each clerk in regular succession under the said headings in his poll list. [G. S., §1196; G. L., §972.]

**2252. Preparation of ballot by election officials—Watchers and challengers.**—Any person desiring to vote shall give his name, and, if re-

quested so to do, his residence, to one of the judges of election, who shall thereupon announce the same in a loud and distinct tone of voice, clear and audible, and if such name is found upon the registry list by the election judge or clerk having charge thereof, he shall likewise repeat the said name, and the voter shall be allowed to enter the space enclosed by the guard rail, as above provided. An election judge or clerk shall give him one, and only one, ballot, which shall be removed from the package of ballots by tearing the same along the perforated line between the stub and duplicate stub, and before delivering such ballot to the voter, the judge or clerk of election having charge of the ballots shall endorse his initials on the duplicate stub. The name of such voter shall be immediately checked on said list with the number of such duplicate stub. Besides the election officers and watchers, not more than four voters in excess of the number of voting shelves or compartments provided shall be allowed in said enclosed space, within said guard rail, at one time, except as provided in section twenty-eight. Each of the political parties which cast the largest and next largest number of votes at the last general election in the state shall be entitled to have one person as watcher within the guard rail during the casting and counting of votes and declaration of the result thereof. Such person shall be designated and his selection made known to the election officers by an affidavit made by the acting chairman of the county or state committee of each of such parties; *Provided*, That in case of temporary absence for meals, or by reason of sickness or otherwise, the person so selected may have substituted for himself some other person of like political belief, such substitute to be made known to the election judges by an affidavit of the person first so selected as watcher. When any person shall make application for a ballot, his right to vote at that poll and election may be challenged, and such proceedings shall thereupon be had before the judges of election as are now prescribed in case of challenge. If the person so applying is not entitled to vote, no ballot shall be delivered to him. Any person may also be challenged, as now provided by law, when he shall offer his ballot for deposit in the ballot box. Two challengers, representing each political party or set of nominations, shall be permitted to remain just outside the guard rail, where they can plainly see what is done within the polling place, except within the said booths or compartments. The said polling place shall be so arranged that every part thereof, except inside the said booths or compartments, may be in full view of such challengers and watchers. [L. '91, p. 156, §25.]

[Section 28 above referred to is section 2261.]

[See also as to watchers and challengers, section 2268.]

1. This section is referred to in *People vs. News-Times Publishing Co.*, 35 Colo., 253, 295.

**2253. Grounds for challenge—Questions to challenged voted.**—If a person offering to vote be challenged as unqualified by one of the judges of election, or by an elector, one of the judges shall tender to him the following oath or affirmation: You do solemnly swear (or affirm) that you will fully and truly answer all such questions as shall be put to you touching your place of residence, and qualifications of an elector at this election.

*First*—If the person be challenged as unqualified, on the ground that he is not a citizen, and will not exhibit his papers pertaining to his naturalization, the judges, or one of them, shall put the following questions: *First*—Are you a citizen of the United States? *Second*—Are you a native or naturalized citizen? *Third*—Have you become a citizen of the United States by reason of the naturalization of your parents, or one of them? *Fourth*—Where were your parents, or one of them, naturalized? If the person offering the vote claims to be a naturalized citizen of the United States, he shall state, under oath, where and in what courts he was naturalized.

*Second*—If the person be challenged as unqualified, on the ground that he has not resided in this state for one year immediately preceding

the election, the judges, or one of them, shall put the following questions: *First*—Have you resided in this state for one year immediately preceding this election and during that time have you retained a home or domicile elsewhere? *Second*—Have you been away from this state within the one year immediately preceding this election? *Third*—If so, when you left was it for a temporary purpose, with the design of returning, or did you intend remaining away? *Fourth*—Did you, while absent, look upon and regard this state as your home? *Fifth*—Did you, while absent, vote in any state or territory?

*Third*—If the person be challenged on the ground that he has not resided in the county ninety days, or in the precinct, or ward, ten days, one of the judges shall question him as to his residence in the county, precinct, or ward, in a manner similar to the before mentioned method of questioning a person as to his residence in this state.

*Fourth*—If the person be challenged as unqualified, on the ground that he is not twenty-one years of age, the judges, or one of them shall put the following question: Are you twenty-one years of age, to the best of your knowledge and belief? The judges of election, or one of them, shall put all such other questions to the person challenged, under the respective heads, aforesaid, as may be necessary to test his qualifications as an elector at that election. L. '21, page 287.

[For present qualifications of an elector, see sections 2146-2150. The wording of this section has been changed herein accordingly.]

**2254. Oath of challenged voter.**—If the challenge be not withdrawn after the person offering to vote shall have answered the questions put to him as aforesaid, one of the judges shall tender to him the following oath: You do solemnly swear (or affirm) that you are a citizen of the United States, of the age of twenty-one years, that you have been a resident of this state for one year next preceding this election, and have not retained a home or domicile elsewhere; that you have been for the last ninety days, and now are, a resident of this county; that you have been for the last ten days, and now are, a resident of this precinct (or ward, as the case may be), and that you have not voted at this election. (Laws '21, p. 289.)

[See note, section 2253. Wording changed accordingly.]

**2255.—Refusal to answer—Vote rejected.**—If the person challenged as aforesaid shall refuse to answer fully any question which shall be put to him as aforesaid, the judges shall reject his vote. [G. S., §1188; G. L., §964.]

**2256. Refusal to take oath—Vote rejected.**—If any person shall refuse to take the oath or affirmation so tendered, his vote shall be rejected; *Provided*, That after such oath shall have been taken the judges may nevertheless refuse to permit such person to vote if they shall be satisfied that he is not a legal voter. [G. S., §1190; G. L., §966.]

**2257. Clerks write "Sworn" on poll book.**—Whenever any person's vote shall be received, after having taken the oath or affirmation prescribed in section forty (40) of this act, it shall be the duty of the clerks of the election to write on the poll books at the end of the person's name, "Sworn." [G. S., §1191; G. L., §967.]

[Section 40 referred to is section 2254.]

**2258. Duty of judge to challenge.**—It shall be the duty of any judge of election to challenge any person offering to vote whom he shall believe not to be qualified as an elector. [G. S., §1192; G. L., §968.]

**2259. Preparation of ballots by voter—Manner of voting.**—On receiving his ballot the voter shall forthwith, and without leaving the enclosed space, retire alone to one of the voting shelves or compartments so provided, and shall prepare his ballot by marking, in ink, in the appro-

priate margin or place, a cross (X) opposite the name of the candidate of his choice for each office to be filled; and in case of a question submitted to a vote of the people, by marking in the appropriate margin or place a cross (X) against the answer which he desires to give; and in case of a vote for an entire or straight ticket or list of candidates, by making a cross (X) in the appropriate square after the name and emblem designating such ticket or list of candidates. Before leaving the voting shelf or compartment, the voter shall fold his ballot without displaying the marks thereon, in the same way it was folded when received by him, so that the contents of the ballot shall be concealed and the stub can be removed without exposing any of the contents of the ballot, and he shall keep the same so folded until he has voted. Each voter who has prepared his ballot, and is ready to vote as aforesaid, shall then leave the compartment and approach the judges of election having the ballot box in charge, and give his name to one of the judges of election, who shall announce it in a loud and distinct tone of voice, clear and audible. The voter's ballot shall be handed to the judge in charge of the ballot box, who shall announce the name of such voter, and the number upon the duplicate stub of his ballot; which number must correspond with the stub number previously checked in front of his name by the election judge or clerk who handed him his ballot; if the stub number of the ballot corresponds and is identified by the initials of the judge or clerk placed thereon, the judge or clerk shall then remove the duplicate stub from such ballot. The judge or clerk shall immediately write the name of such voter upon the poll list, and shall take the ballot of such voter and number it in ink, in one corner, upon the top thereof, in such manner as not to expose or show how the voter has voted, the same to be numbered in the order in which it shall be received, consecutively, and so as to permit the corner to be turned and pasted down with muscllage, which shall then be done so that the number is not thereafter visible, and such seal shall only be broken in case of contested election; and the same number shall be recorded by the election judge or clerk on the list of voters beside the name of such voter. Such ballot shall then be returned by said judge or clerk to the voter, who shall thereupon, in full view of the judges of election, deposit the same in the ballot box, with the official endorsement on said ballot uppermost. Each voter shall mark and deposit his ballot without undue delay, and shall quit said enclosed space as soon as he has voted. No such voter shall be allowed to occupy a voting shelf or compartment already occupied by another, nor to remain within said enclosed space more than ten minutes, nor to occupy a voting shelf or compartment for more than five minutes, in case all such shelves or compartments are in use and other voters are waiting to occupy the same. Besides the election officers not more than four voters in excess of the number of voting shelves or compartments provided, shall be allowed in said enclosed space at any one time, except as provided in section 28. No voter not a judge or clerk of election, whose name has been checked on the registry list of the ballot officers, shall be allowed to re-enter said enclosed space during said election. It shall be the duty of each and all of the judges of election to secure the observance of the provisions of this section and of other sections relative to the duties of judges and clerks of election. [L. '94, p. 65, §5; amending L. '91, p. 157, §26.]

[This section, in so far as it refers to voting a straight ticket, has been amended by section 2236. See also Headless Ballot Act.]

[Section 28 referred to is section 2261.]

1. See notes 1 to 6 inclusive under Section 2235. This section referred to in *Baldwin vs. Wade*, 50 Colo., 109, 117; *Riley vs. Trainor*, 57 Colo., 155; *Allen vs. Glynn*, 17 Colo., 338, 341.

**2260. Refusal to receive legal vote—Penalty.**—If any judge or the judges of any election shall wilfully and maliciously refuse to receive the ballot of any qualified elector, who shall take or offer to take the oath prescribed by this act, in such case every judge so refusing or neglecting to receive the vote or ballot, when the same shall be presented, shall be liable to be indicted, and on conviction thereof shall be fined five hun-

dred dollars, and imprisoned not exceeding thirty days; and for every refusal or neglect to receive such vote, the party aggrieved may have an action on the case against the said judge or judges; the damages in such case shall not exceed the sum of five hundred dollars. [G. S., §1201; G. L., §977.]

**2261. Assistance to illiterate and disabled voters.**—Any voter who declares under oath to the inspectors of election that he can not read or write, or that, by reason of physical disability, he is unable to prepare his ballot without assistance, shall upon his request receive the assistance of any two of the election judges or clerks, who are of different political parties, in marking thereof; and such officers shall certify on the outside thereof that it was so marked with their assistance, and shall thereafter give no information regarding the same. The same two judges or clerks shall not together successively act as such assistants. The judges of election are hereby qualified to administer such oath, and a memorandum shall be made on the poll lists of every instance when an oath was administered to a voter as herein provided, stating what facts were sworn to, the name of affiant, and the name of the judges or clerks who aided the voter in the preparation of his ballot. No officer who assists a voter in the preparation of his ballot, as herein provided, shall, in any manner, request, persuade, or induce, or seek to persuade or induce, any such voter to vote for any particular candidate or candidates. Nor shall any such officer reveal to another the name of any candidate for whom the voter has voted, or anything that took place while he was assisting such voter in preparing such ballot for voting. No voter shall divulge to any one within the polling place the name of any candidate for whom he intends to vote, nor shall he ask for or receive the assistance of any person within the polling place, in the preparation of his ballot, except as provided in this section. When any voter, in addition to the oath required hereinbefore by this section, shall also make oath that he can not speak and understand, when spoken, the English language, the election judges may select two persons, one from each political party, who shall act as interpreters, and who shall take the oath taken by election judges as nearly as may be, which interpreters may assist such persons who can not speak or read the English language in making up their ballots. [L. '91, p. 160, §28.]

[See section 3 of Headless Ballot Act.]

[For assistance to voter where machine is used, see sections 2349 to 2350.]

1. This section is referred to in *People vs. News-Times Publishing Company*, 35 Colo., 253, 294.

**2262. Spoiled ballots—Record of vote.**—No person shall take or remove any ballot from the polling place before the close of the polls. If any voter spoils a ballot, he may successively obtain others, one at a time, not exceeding three in all, upon returning each spoiled one. The ballots thus returned shall be immediately cancelled, and together with those not distributed to voters, shall be preserved, and with the poll list used by the election judges and clerks, which shall be certified by them to be such, shall be secured in an envelope, sealed and sent to the several town, city and county clerks. The election officers shall also at the same time file with the county clerk, city clerk or town clerk, as the case may be, a statement in writing showing the number of ballots voted (making a separate statement of the number of unofficial ballots, if any, voted, as provided in section twenty-two), the number of ballots delivered to voters, the number of spoiled ballots and the number of ballots not delivered to voters and the number of ballots returned, identifying and specifying the same; and all unused ballots, spoiled ballots and stubs of ballots voted shall be returned with such statement. Any election officer who shall fail to thus account fully and particularly for all official ballots placed in his charge, shall be deemed guilty of a misdemeanor. [L. '91, p. 159, §27.]

[Section 22 referred to is section 2244.]

**2263. Count of votes.**—As soon as the polls at any election shall have finally closed, the judges shall immediately open the ballot box and proceed to count the votes polled, and the counting thereof shall be commenced and continued until finished before the judges and clerks shall adjourn. They shall first count the number of ballots in the box. If the ballots shall be found to exceed the number of names entered on each of the poll lists, the judges of election shall then examine the official endorsements upon the outside of the ballots without opening the same, and if, in the unanimous opinion of the judges, any one or more of the ballots in excess of the number on the poll lists be deemed not to bear the proper official endorsement, it or they shall be put into a separate pile by themselves, and a separate record and return of the votes in such ballots shall be made under the head of "Excess Ballots." When the ballots and the poll lists agree, or, as above provided, have been made to agree, the board shall proceed to count the votes; each ballot shall be read and counted separately, and every name included in a marked set or list of nominations, or separately marked as voted for on such ballot, where there is no conflict to obscure the intention of the voter, as aforesaid, shall be read and marked upon the tally lists, before any other ballot is proceeded with; and the entire number of ballots, excepting "Excess Ballots," shall be read and counted and placed upon the tally lists in like manner, and when all of the ballots, excepting "Excess Ballots," if any, have been counted as herein provided, the board shall estimate and publish the votes. [L. '91, p. 161, §31.]

**2264. Clerks keep tally lists.**—As the judges of election shall open and read the tickets, each clerk shall, upon tally lists prepared for that purpose, carefully mark down the votes each of the candidates shall have received, in separate lines, with the name of such candidate at the end of the line, and the office it is designed by the voter such candidate shall fill. [L. '91, p. 162, §32.]

1. A court of equity having assumed jurisdiction and issued a writ of injunction to prevent frauds at an election may effectuate its orders made to prevent such frauds by restraining the election commission, from canvassing the returns from precincts where it appears that in violation of the court's mandate such frauds were committed that the returns are absolutely false and that the truth cannot be deduced from them. *The People vs. Tool*, 35 Colo., 225, 227.

**2265. Imperfect or defective ballots.**—If a voter marks in ink more names than there are persons to be elected to an office, or if, for any reason, it is impossible to determine the choice of any voter for any office to be filled, his ballot shall not be counted for such office. *Provided, however*, A defective or an incomplete cross marked on any ballot in ink, in a proper place, shall be counted if there be no other mark or cross in ink on such ballot indicating an intention to vote for some person or persons or set of nominations, other than those indicated by the first mentioned defective cross or mark, and where a cross is marked in ink against a device indicating a vote for the entire set of candidates, and also another cross in ink against one or more names in another list, such ballot shall only be held invalid as to any office so doubly marked. No ballot without the official endorsement shall, except as provided in section twenty-two of this act, be allowed to be deposited in the ballot box, and none but ballots provided in accordance with the provisions of this act shall be counted. Ballots not counted shall be marked "Defective" on the back thereof, and shall be preserved until the next general election, when the same shall be destroyed by fire by the clerk having the custody thereof. [L. '91, p. 160, §29.]

[Section 22 referred to is section 2244.]

See also notes 1 to 6 inclusive under Section 2235.

**2266. Marking imperfectly names of candidates voted for.**—If an imperfect cross or mark be found near the name of a candidate in ink, which mark appears to have been made with intent to designate the

candidate so marked as the one voted for, such ballot shall not be rejected, if the intent of the voter to designate the person for whom he intended to vote can be reasonably gathered therefrom; *Provided*, That if marks placed opposite the names of individual candidates shall work to a complete exclusion of the candidates of the party, the designation of which has been written in at the top of the ballot, and the intention of the voter is clear, it shall not be necessary to strike out the names of the candidates against whom it is desired to vote. [L. '01, p. 172, §3.]

[Penalty for violation of above section, see section 2269.]

1. See notes 1 to 6 inclusive under Section 2235.

2. The voter must substantially observe the requirements of the statute. *Bromley vs. Hallock*, 57 Colo., 148.

3. Where the voter writes in the blank above the list of nominations, the name of a particular party, he indicates an intention to vote for all the candidates of that party named upon the ballot, unless, in the way provided by the statute, he manifests a different intention, i. e., by inserting an X opposite the name of an opposing candidate, or if there are two or more candidates for the same office, by drawing a line through the name of those, or the one, for whom he does not desire to vote. *Bromley vs. Hallock*, 57 Colo., 148.

**2267. Judges' certificate—Form—Signature—Sealing—Returning—Penalty.**—As soon as all the votes shall have been read off and counted, the judges of election shall make out a certificate under their hands, and attested by the clerks, stating the number of votes each candidate received, designating the office for which such person received such vote or votes, and the number he did receive, the number being expressed in words at full length, and in numerical figures, such entry to be made, as nearly as circumstances will admit, in the following form, to-wit: At an election held at the house of....., in..... precinct or ward, in the county of..... and state of Colorado, on the..... day of....., in the year of our Lord one thousand nine hundred and....., the following-named persons received the number of votes annexed to their respective names for the following described offices, to wit: Whole number of votes cast were..... A. B. had seventy-two (72) votes for governor; C. D. had seventy-one (71) votes for governor; E. F. had seventy-two (72) votes for lieutenant-governor; G. H. had sixty-nine (69) votes for lieutenant-governor; J. K. had sixty-eight (68) votes for representative in congress; L. M. had seventy (70) votes for representative in congress; N. O. had seventy-two (72) votes for representative; P. Q. had seventy-one (71) votes for representative; R. S. had eighty-four (84) votes for sheriff; T. W. had sixty (60) votes for sheriff; and in the same manner for any other persons voted for.

Certified by us:

A. B. } Judges  
C. D. } of  
E. F. } Election

Attest:

G. H. } Clerks of  
I. J. } Election.

And the said certificate, together with one of the lists of voters, and one of the tally papers, shall then be enclosed and sealed up, under cover, and directed to the clerk of the county in which such election is held, and the packet thus sealed shall be sent by registered letter, where practicable, otherwise it shall be conveyed by one of the judges or clerks of the election, to be determined by lot if they cannot agree otherwise, within six days of the closing of the polls. And if any judge or clerk of an election, after having been deputed by the judges of election, at which he served as judge or clerk, to carry the poll book of such election to the clerk of the county, shall fail or neglect to deliver such poll book to the said clerk within the time prescribed by law, save, with the seal unbroken, he shall for every offense forfeit and pay the sum of five hundred dollars, for the use of the county, to be recovered in the name of the commissioners of the county, by an action of debt in any

court of competent jurisdiction; *Provided*, That informality in the delivering of the poll books as directed in this section shall not invalidate the vote of any precinct when said poll books shall have been delivered previous to the canvassing of the votes of such election by the county board of canvassers. When all the votes shall have been read and counted, the ballots, together with one of the tally lists, shall be returned to the ballot box and the opening in the glass part there shall be carefully sealed, and each of the judges shall place his private mark on said seal, the wooden cover shall then be locked and each of the judges shall preserve one of the keys thereof as herein provided. This box shall then be delivered by one of the clerks of the election who is of the opposite political party from the judge or clerk chosen to take charge of and deliver the certificate and tally list, which clerk shall at once and with all convenient speed take said box to the office of the county clerk and recorder and safely deliver it to such officer, taking his delivery receipt therefor. [G. S., §1200; L. '83, p. 184, §5, amending G. L., §976.]

1. Mere irregularities in returning the ballots and poll lists, in the absence of fraud, will not necessarily vitiate the returns. *Kellog vs. Hickman*, 12 Colo., 257.

**2268. Watchers.**—Each of the two political parties casting the highest vote for the principal officer to be chosen at the last general election, shall have the right to appoint in each precinct one person, a bona fide member of such party, and a resident of the precinct, to remain within the polling place, as a watcher, during the casting and counting of votes, and the declaration of the result thereof. Such watcher may also act as challenger, when there is reason to believe that any person about to vote is not entitled to vote in that precinct. No one who is the employer agent, manager, superintendent or boss of a number of employees of any company, corporation, or person, carrying on mining, manufacturing or railroad operations in such precinct, shall be appointed such watcher, and each watcher shall have the right to select and have present, during the counting of the votes, three registered voters of the precinct. [L. '01, p. 172, §2.]

[Watchers and challengers, see section 2252.]

**2269. Penalty for interference with watcher.**—If any person shall interfere with any watcher herein provided for while he is in the discharge of his duties, then such person so interfering shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not more than three hundred (300) dollars. Justices of the peace shall have jurisdiction of action brought for a violation of this act, subject to the right of appeal as provided for in cases of assault and battery. [L. '01, p. 173, §4.]

[Act above referred to is sections 2218, 2266, 2268 and 2269.]

**2270. Judges designate and appoint constables.**—For the preservation of order, as well as the securing of the judges and clerks of the election from insult and abuse, it shall be the duty of any constable or constables residing within the precinct, who shall be designated for the purpose by the judges of the election, to attend to all elections within his precinct, and the judges of election are hereby authorized and empowered to appoint one or more special constables to assist in preserving order during the elections and until the votes are canvassed. [G. S., §1194; G. L., §970.]

**2271. Fees of constables—Special constables.**—Constables or special constables appointed or requested by the judges of election to preserve peace at the polls, shall each receive two dollars and a half per day for their services, payable out of the county treasury. [G. S., §1195; G. L., §971.]

## K. ABSENT ELECTORS—VOTE BY MAIL.

**Section 1. Elector absent from home may vote—Where.**—That it shall be lawful for any qualified elector of the State of Colorado who may, on the occurrence of any general or primary election hereafter held pursuant to law in this state, be unavoidably absent from his county because his duties or occupation require him to be elsewhere within the state, to vote in any voting precinct in the state where he may present himself for that purpose on the day of such election or primary under the regulations hereinafter prescribed, with like effect as though he were casting his vote in his own county and voting precinct.

**Sec. 2. Must have certificate of registration identification of elector—Oath.**—The voter so entitled to vote shall present himself at the polls in any precinct in the state where he may be on such primary or general election day, during the regular voting hours provided by law, and before being allowed to vote, such voter shall present a certificate of registration certified to by the county clerk or registration board of the county or precinct in which he resides, to be furnished to any registered voter by the proper officer or board upon demand prior to election day, and shall be identified in person to the judges of election in the precinct where he offers to vote, by one or more resident voters in such precinct and, in addition, make and subscribe before one of the judges of election an affidavit in substance as follows:

"State of Colorado,                    }  
  } ss.  
County ..... }

I do solemnly swear that I have resided in the State of Colorado for one year immediately prior hereto, in the County of..... for ninety days immediately prior hereto, and in Precinct..... for ten days immediately prior hereto, (or in the..... Ward of the City of.....) for ten days immediately prior hereto, and in said City of..... for thirty days immediately prior hereto; that I am a citizen of the United States and a qualified elector, and that because of my duties (or occupation or business) I am required to be absent from my county and precinct on this day, I have had and will have no opportunity to vote there, and that I have not voted elsewhere at this election."

Any judge of election in any voting precinct in this state is hereby authorized to administer the oath and take and certify the affidavit. Thereupon the affiant shall be given an official ballot, printed like the other official ballots as to national and state candidates, constitutional amendments, initiated and referred laws, district, county and precinct candidates, and such voter shall write in the names of such candidates in the blank space left for that purpose not printed thereon as he may desire to vote for, and mark the same as any resident voter, and shall fold the same and hand it to the judges, as in the case of a resident voter, but such ballot shall not be deposited in the ballot box, nor be entered upon the poll books. It shall, together with the affidavit, be securely sealed in an envelope, upon the back of which one of the judges shall write: "The ballot of....., an absent voter of..... precinct (or ward or precinct of the..... ward of the city of.....) in the county of.....," which shall be signed by one of the judges.

**Sec. 3. Judges file ballot with local clerks.**—All such envelopes shall, by the judges of election, be filed with the county clerks or election commission, of the counties where such votes were cast with the other election returns of such primary or general elections and receipt taken therefor, and said county clerk or election commission shall immediately mail them by special delivery postage prepaid to the county clerks or election commission, of the respective counties where such voters belong.

**Sec. 4. Ballot held by receiving clerk.**—The county clerk or election commission of the county where such absent voter resides shall receive such ballot and shall safely keep and preserve same unopened in his office until the board of county canvassers canvass the vote according to law, at which time the board of county canvassers, in the presence of the county clerk or election commission, and no other person, shall open said envelope and record the said ballot upon the poll book of the proper precinct in their possession in the same manner as clerks of election record votes, provided said canvassing board shall find the name of such absent voter duly registered among the voters of such precinct, as required by law in other cases of resident voters, and in so canvassing said vote, the board of county canvassers shall count the vote of all absent voters taken as herein provided, which shall appear to have been duly registered as required by law in their respective precincts, and add the same to the total of the poll sheet in arriving at the total result of the election in the precinct where the voter lives.

**Sec. 5. Ballot preserved.**—Said ballot after being so opened and counted by the county board of canvassers shall be sealed in an envelope with the endorsement thereon: "Vote of .....Precinct (or.....Ward of.....City;)" and the same shall be kept in the county clerk's office or office of the election commission, as other ballots are kept until destroyed according to law, and in case of contested elections, the same shall be opened and counted as in other cases, but in case the board of county canvassers shall not find the name of such absent voter registered among the voters of his precinct, one of such board shall endorse on the envelope containing the ballot, "Not registered," and such ballot shall not be counted or removed from the envelope, and the envelope and the ballot therein shall be preserved by the county clerk in his office, as in case of a ballot that has been so counted.

**Sec. 6. False affidavit—Wrongfully permitting party to vote—Neglect of duties by clerk—Revealing contents of ballot—Penalty.**—If any person shall wilfully swear falsely to the affidavit herein provided for, he shall upon conviction thereof be deemed guilty of perjury and be punished as in such cases is provided by law. If the officers of election permit any person to vote as herein provided without his taking said affidavit, or shall neglect or refuse to perform any of the duties prescribed in this act, they shall upon conviction thereof be deemed guilty of a misdemeanor and shall on conviction be punished by a fine not exceeding one hundred dollars. If any county clerk or any member of any election commission or any member of the board of county canvassers shall neglect or refuse to perform any of the duties prescribed by this act, or shall reveal or divulge any of the details or contents of any ballot herein provided, he shall, upon conviction thereof, be adjudged guilty of a misdemeanor and be punished by a fine of not exceeding one hundred dollars.

**Sec. 7. Clerk furnish form of affidavit.**—Every county clerk and election commission shall supply the judges of election with a reasonable number of printed forms of affidavits of the character described in section 2 of this act. [L. '15, pp. 221 to 224, Sections 1 to 7, inclusive.]

## L. CANVASS OF VOTES.

Section	Section
2272. County clerk open returns and abstract votes—Ties.	2279. Meeting of state board of canvassers.
2273. Fees of justice of peace in canvassing votes.	2280. State canvassers—Statement—Certificate.
2274. Certified copy of abstract filed with secretary of state.	2281. Tie—Lots cast—Notice to candidates.
2275. Deputy clerk act, when.	2282. Secretary of state record and publish statement of canvassers.
2276. Vote for state officers—Abstract sent to speaker—Canvass by general assembly—Tie—Joint ballot.	2283. Secretary of state furnish lists of members of general assembly.
2277. State board of canvassers canvass votes.	2284. Secretary of state prepare list of presidential electors.
2278. Failure of returns, secretary of state send messenger—Ray.	2285. Imperfect ballots and returns, when counted.
	2286. Correction of clerical errors—Adjournments of board.

**2272. County clerk opens returns and abstract votes—Ties.**—On the tenth day after the close of the election, or sooner, if all the returns be received, the clerk of the county, taking to his assistance two justices of the peace of his county, one at least of whom shall belong to a different political party than himself, if any such there be in the county, shall proceed to open the said returns, and make abstracts of the votes in the following manner: The abstract of votes for electors for president and vice-president of the United States shall be on one sheet, and the abstract of votes for representatives in congress shall be on another sheet, and the abstract of votes for regents of the university shall be on another sheet, and the votes for officers of the executive department shall be on another sheet, and the abstract of votes for senators shall be on another sheet, and the abstract of votes for representatives shall be on another sheet, and the abstract of votes for judges of the supreme court shall be on another sheet, and the abstract of votes for judges of the district court and district attorneys shall be on another sheet, and the abstract of votes for county and precinct officers shall be on another sheet; and it shall be the duty of the said clerk of the county immediately to make out a certificate of election to each of the persons having the highest number of votes for county and precinct officers, respectively, and cause such certificate to be delivered to the person entitled to it. If any two or more persons have an equal number of votes for the same county or precinct office, and a higher number than any other person, the county clerk and his assistants aforesaid shall immediately determine by lot which of the two candidates shall be elected. [G. S., §1202; G. L., §978.] [See Form P. E. No. 12.]

1. The general rule is, subject to modification by statute, that the powers of canvassers are ministerial, simply involving the labor of counting the votes returned, and determining who has received the highest number; they have no judicial power to reject votes polled. The regularity of their proceedings may be inquired into on mandamus. *People vs. The Board of County Commissioners of Grand County, 6 Colo., 202.*

**2273. Fees of justice of peace in canvassing votes.**—Every justice of the peace called to assist the county clerk of any county in opening the returns of any election, and making abstracts of the votes cast thereat, as is required by law, shall be allowed and received for such services the sum of five dollars for each day in which he is actually engaged therein, to be paid by the county in which such service is rendered. [L. '89, p. 222, §1.]

**2274. Certified copy of abstract filed with secretary of state.**—The clerk of the county, immediately after making out abstracts of votes given in his county, shall make a copy of such abstract and deliver or transmit the same in a registered package by mail to the office of the secretary of state; the original abstract he shall file and record in a book in his office to be kept for that purpose. He shall also certify to the abstracts and copies, and affix thereto the county seal, and the said

clerk shall respectively endorse on the back of the envelope in which the said certified copies are enclosed: "Certified copy of the abstract of votes cast for governor, etc., members of the general assembly, etc. (as the case may be), cast at the regular election in..... county, ....., 19...." [G. S., §1203; G. L., §979.]

**2275. Deputy clerk act—When.**—Whenever it shall so happen that the county clerk shall die, be absent, or from any casualty be prevented from opening the returns of votes at any election, it shall be lawful for his deputy to discharge the duties required of such clerk by law; which deputy shall be appointed by the majority of the county commissioners when said clerk has failed to appoint a deputy. [G. S., §1204; G. L., §980.]

**2276. Votes for state officers—Abstract sent to speaker—Canvass by general assembly—Tie—Joint ballot.**—The abstract of votes cast in each county for the officers of the executive department shall be sealed up by the county clerks of said counties, and delivered or transmitted in a registered package by mail to the secretary of state, directed to the speaker of the house of representatives. Upon the organization of the house the secretary of state shall deliver to the speaker of the house all of the returns for officers of the executive department that he shall have received, and upon the receipt of the same by the speaker of the house of representatives he shall, before proceeding to other business, open and publish the same in the presence of a majority of the members of both houses of the general assembly, who shall for that purpose assemble in the hall of the house of representatives. The person having the highest number of votes for either of said offices shall be declared duly elected by the presiding officer of the joint assembly, but if two or more have an equal and the highest number of votes for the same office, one of them shall be chosen thereto by the two houses on joint ballot. [G. S., §1205; G. L., §981.]

### 1. STATE BOARD OF CANVASSERS.

**2277. State board of canvassers canvass votes.**—The governor, secretary of state, auditor of state, treasurer of state and attorney-general, or any three of them, shall constitute the board of state canvassers, and shall canvass the abstracts of votes cast in the different counties of the state for electors of president and vice-president, for representatives in congress, for regents of the university, for judges of the supreme and district courts, for district attorneys, and for senators and representatives. [G. S., §1206; G. L., §982.]

1. The duties of the state board of canvassers in canvassing the returns of an election for representative in the general assembly are purely political and governmental and the courts have no jurisdiction to control its action therein by mandamus. *Orman vs. People*, 18 Colo. App., 302.

2. Even if the courts had jurisdiction to mandamus the state board of canvassers the writ would lie only to command the board to act, and not to control their discretion by commanding them how to act in a case where there were presented to them what purported to be two sets of abstracts of votes each claiming to be the correct one. *Orman vs. People*, 18 Colo. App. 302.

**2278. Failure of returns, secretary of state send messenger—Pay.**—If from any county no such abstract of votes shall have been received within the twenty-five days next after any election, by the secretary of state, he shall dispatch a special messenger to obtain a copy of the same from the county clerk of such county, and such county clerk shall immediately on demand of such messenger make out and deliver to him the copy required, which copy of the abstract of votes the messenger shall deliver to the secretary of state without delay. The said messenger shall receive as compensation for his services three dollars per day, and fifteen cents for each mile traveled in going to and returning from the county seat of said county, by the usual route, to be paid out of the state treasury. [G. S., §1207; G. L., §983.]

**2279. Meeting of state board of canvassers.**—For the purpose of canvassing the result of elections, the state board of canvassers shall meet at the office of the secretary of state at ten o'clock of the forenoon of the twenty-fifth day after any election for any of the officers mentioned in section fifty-three (53) of this act, if it be not on Sunday; if it be on Sunday, then they shall meet on the twenty-sixth day, when they shall, if the returns from all counties of the state be in the possession of the secretary of state, proceed to canvass the votes. If the returns are not all in they shall adjourn from time to time, as they deem proper, to await the receipt of all returns; *Provided, however,* That on the last Wednesday of December, next after the election, they shall canvass the votes whether all the returns be received or not; *And also provided,* That on the year upon which there is elected electors of president and vice-president, the state board of canvassers shall meet at the secretary of state's office on the last secular day of November, in the year of the election, and proceed to canvass the votes cast for said electors. [G. S., §1208; G. L., §984.]

[Board may return statement to county or precinct board for correction, section 2286.]

[Section 53 above referred to is section 2272.]

**2280. State canvassers—Statement—Certificate.**—The state board of canvassers, when met in accordance with the law, and a quorum (three) being present, shall proceed to examine and make statement of the whole number of votes given at any such election for all the officers mentioned in section fifty-three (53) of this act that shall have been voted for in said election; which statements shall show the names of the persons to whom such votes shall have been given for either of said officers, and the whole number given to each, distinguishing the several districts and counties in which they were given; they shall certify such statements to be correct and subscribe their names thereto, and they shall thereupon determine what persons have been by the greatest number of votes duly elected to such offices, or either of them, and shall endorse and subscribe on such statements a certificate of their determination and deliver them to the secretary of state. [G. S., §1209; G. L., §985.]

[Section 53 above referred to is section 2272.]

**2281. Tie—Lots cast—Notice to candidates.**—If any two or more persons have an equal and the highest number of votes for member of either house of the general assembly, for judge of the supreme or district courts, for district attorney, or for regent of the university, or electors of president and vice-president, the state canvassers shall proceed to determine by lot which of the candidates shall be declared elected. Reasonable notice shall be given to such candidates of the time when such election will be so determined. [G. S., §1210; G. L., §986.]

**2282. Secretary of state record and publish statement of canvassers.**—The secretary of state shall record in his office in a book to be kept by him for that purpose each certified statement and determination, as made by the board of state canvassers, and shall without delay make out and transmit to each of the persons thereby declared to be elected, a certificate of his election, certified by him under his seal of office; and he shall also forthwith cause a copy of such certified statement and determination to be published in a newspaper published at the seat of government. [G. S., §1211; G. L., §987.]

**2283. Secretary of state furnish list of members of general assembly.**—Upon the day fixed by law for the assembling of the general assembly the secretary of state shall lay before each house a list of the members elected thereto, with the districts they represent, in accordance with the returns in his office. [G. S., §1212; G. L., §988.]

**2284. Secretary of state prepare lists of presidential electors.**—The secretary of state shall prepare lists of the names of the electors of president and vice-president of the United States, elected at any election, pro-

cure thereto the signature of the governor, affix the seal of the state to the same, and deliver one of such certificates thus signed to each of said electors, on or before the first Wednesday in December next after such election. [G. S., §1213; G. L., §989.]

[Note: But see I U. S. Comp. Stats. Sec. 199 et sec.]

## 2. CORRECTION OF ERRORS.

**2285. Imperfect ballots and returns when counted.**—Whenever the judges of election in any precinct or ward discover in the canvassing of votes that the name of any candidate voted for be misspelled, or the initial letters of his Christian name or names be transposed or omitted in part or altogether on the ballot, the vote or votes for such candidate shall be counted for him if the intention of the elector to vote for him be apparent; and whenever the board of county canvassers or of state canvassers, or the speaker of the house of representatives, when authorized by law to canvass votes or returns, shall find the returns from any precinct, ward, county or district (as the case may be) do not strictly conform to the requirements of law in the making, certifying and returning the same, the votes polled in such precinct, ward, county or district shall, nevertheless, be canvassed and counted, if such returns shall be sufficiently explicit to enable such boards, or any person or persons authorized to canvass votes and returns, to determine therefrom how many votes were polled for the several persons who were candidates and voted for at the election of which the votes are being canvassed. [G. S., §1216; G. L., §992.]

**2286. Correction of clerical errors—Adjournments of board.**—If upon proceeding to canvass the votes it shall clearly appear to the canvassers that in any statement produced to them certain matters are omitted in such statement which should have been inserted, or that any mistakes which are clerical merely, exist, they shall cause the said statement to be sent by one of their number (whom they shall depute for that purpose) to the precinct or ward judges, or to the county board of canvassers (as the case may be) from whom they were received, to have the same corrected, and the judges of election or county clerk (as the case may be), when so demanded, shall make such correction as the facts of the case require, but shall not change or alter any decision before made by them, but shall only cause their canvass to be correctly stated; and the canvassing board may adjourn from day to day for the purpose of obtaining and receiving such statement; *Provided, always,* That they shall not delay counting past the day provided by law for the completion of the canvass. [G. S., §1217; G. L., §993.]

## M. CONTEST OF ELECTIONS.

1. PRESIDENTIAL ELECTOR, SUPREME, DISTRICT AND COUNTY JUDGE.—2287-2293.
2. STATE OFFICERS.—2294-2297.
3. SENATORS AND REPRESENTATIVES.—2298-2307.
4. COUNTY OFFICERS.—2308-2319.
5. TOWN, PRECINCT AND SCHOOL OFFICERS.

### 1. PRESIDENTIAL ELECTOR, SUPREME, DISTRICT AND COUNTY JUDGE.

#### Section

2287. Any elector may institute contest.  
 2288. Supreme court jurisdiction.  
 2289. District court jurisdiction.  
 2290. District court jurisdiction of county judge contest.

#### Section

2291. Proceedings in district court.  
 2292. Changes of venue.  
 2293. Appeals.

**2287. Any elector may institute contest.**—Any qualified elector may institute proceedings to contest the election of any person to the office of presidential elector, or to the office of supreme, district or county judge. [L. '93, p. 242, §1.]

**2288. Supreme court jurisdiction.**—The supreme court, or any two or more judges thereof in vacation, shall have original jurisdiction for the adjudication of such contests for the office of presidential elector, and for the office of judge of the supreme court, and shall prescribe rules for practice and proceedings therein; *Provided*, That no judge of said court who is a contestant or contestee in such election shall be permitted to hear and determine the same. [L. '93, p. 242, §2.]

**2289. District court jurisdiction.**—The district court of the district wherein the contest for the office of district judge arises, or the judge thereof in vacation, shall have jurisdiction for the adjudication of contests over the office of district judge. *Provided*, That should the district judge of such district be himself contestor or contestee in such election, then such contested election shall be heard and determined before the district court of an adjoining judicial district, or the judge thereof in vacation, whose place of residence is nearest to the residence of the contestee. [L. '93, p. 242, §3.]

**2290. District court jurisdiction of county judge contest.**—The district court, or the judge thereof in vacation, shall have jurisdiction for the adjudication of all contests for the office of county judge arising in any of the counties of that district. [L. '93, p. 243, §4.]

**2291. Proceedings in district court.**—All contests before such district courts, or any judge thereof in vacation, shall be conducted as near as may be according to the rules for practice and proceedings therein prescribed by the supreme court for contested elections in such supreme court, or, the supreme court may prescribe rules for practice and proceedings in contested elections before district courts or the judges thereof in vacation. All judges in vacation shall have the same power to issue summonses, attachments and other process, and to render and make effective their judgments and decisions, the same as such courts would have. [L. '93, p. 243, §5.]

**2292. Changes of venue.**—Change of venue may be taken from any district court, or the judge thereof in vacation, for any cause in which changes of venue might be taken in civil or criminal actions. [L. '93, p. 243, §6.]

[For change of venue see Code, sections 31 and 32; and Chapter 153, Venue.]

**2293. Appeals.**—Appeals shall lie to the supreme court from the decisions of any district courts or any judges thereof in vacation, which appeals may be taken in the same manner and under the same conditions as appeals are taken from judgments of the district court in civil actions. [L. '93, p. 243, §7.]

[See Code, section 422, p. 149, for allowance of appeal.]

[Review now by writ of error, L. '11, pp. 1-25.]

## 2. STATE OFFICERS.

### Section

2294. Who may contest—Notice.

2295. General assembly meet—Notice of contest.

### Section.

2296. Evidence—Depositions.

2297. Rules in conducting contests.

**2294. Who may contest—Notice.**—Any candidate or elector being desirous of contesting the election of any person declared elected governor, lieutenant-governor, secretary of state, auditor of state, treasurer of state, attorney-general, superintendent of public instruction, or regent

of the university, shall between the sixth and tenth days of the first session of the general assembly, after the day of election, file a notice of such intention with the secretary of the senate, specifying the particular point on which he means to rely. [G. S., §1232; G. L., §1008.]

**2295. General assembly meet—Notice of contest.**—Upon any such notice being filed, as aforesaid, the general assembly shall, by resolution, determine on what day they will meet in joint convention to take action in any such contest, and thereupon a certified copy of the notice filed by any contestor shall be served upon the person whose election is sought to be contested, or by leaving a copy thereof at his last or usual place of residence by such person as shall by resolution be appointed, with a notice that he is required to attend the joint convention on the day so fixed to answer the contest. [G. S., §1233; G. L., §1009.]

**2296. Evidence—Depositions.**—On the hearing of any contested election for any of the offices named in section eighty-three of this act the parties to such contest may introduce written testimony to be taken in manner to be prescribed by joint convention; but no depositions shall be read on such hearing unless the opposite party shall have had reasonable notice of the time and place of taking the same. [G. S., §1234; G. L., §1010.]

[Section 83 referred to is section 2294.]

**2297. Rules in conducting contests.**—In conducting any contested election for officers named in section eighty-three of this act, the following rules shall be observed, to wit:

*First*—On the day and at the hour appointed for that purpose the general assembly, with its proper officers, shall convene in joint convention.

*Second*—The president of the senate shall preside, but when he is the contestee, the president pro tem. of the senate shall preside.

*Third*—The parties to the contest shall then be called by the secretary of the senate, and, if they answer, their appearance shall be recorded.

*Fourth*—The contestor shall first introduce his testimony, and then the contestee shall introduce his; and, after the testimony is gone through on both sides, the contestor may, by himself or by his counsel, open the argument, and the contestee may then proceed by himself or his counsel, to make his defense, and the contestor be heard in reply.

*Fifth*—After the arguments are thus gone through by the parties, any member of the joint convention shall be at liberty to offer his reasons for the vote he intends to give; *Provided*, That the convention may limit the time of argument and debate.

*Sixth*—The secretary of the senate shall keep a regular journal of the proceedings. The manner of taking the decision shall be by a call of the members, and a majority of all the votes given shall decide. [G. S., §1235; G. L., §1011.]

[Section 83 above referred to is section 2294.]

### 3. SENATORS AND REPRESENTATIVES.

Section	Section
2298. Who may contest.	2304. Time of taking depositions—
2299. Contestor file statement and serve notice.	Trial.
2300. Contestee shall file answer.	2305. Who may take depositions—
2301. Contestor shall file reply.	Witnesses.
2302. Either party may serve notice of taking depositions.	2306. Depositions to be certified and sent to secretary of state.
2303. Testimony in rebuttal may be taken.	2307. Secretary of state transmit contest papers to presiding officer.

**2298. Who may contest.**—The election of any person declared duly elected as a senator or a member of the house of representatives may be contested by any qualified voter of the district to be represented by such senator or representative. [L. '85, p. 193, §1.]

**2299. Contestor file statement and serve notice.**—The contestor shall, within ten days after the canvass of the votes, make and file in the office of the secretary of state a verified statement, as hereinafter required, in relation to county officers, except the list of illegal votes cast or legal votes rejected, and serve a copy thereof upon the contestee. [L. '85, p. 194, §2.]

**2300. Contestee shall file answer.**—The contestee shall, within ten days after the service upon him of such statement, make and file in the office of the secretary of state an answer, duly verified, admitting or specifically denying each allegation contained in such statement intended to be controverted by contestee, and shall also set up in such answer any new matter or counter statement embracing any of the causes hereinafter enumerated as causes of contest in relation to county officers, except the list of illegal votes cast or legal votes rejected, which may entitle him to retain his seat in that branch of the general assembly to which he shall have been declared duly elected, and serve a copy thereof upon the contestor. [L. '85, p. 194, §3.]

**2301. Contestor shall file reply.**—When the answer of contestee contains new matter constituting a counter statement, the contestor shall, within ten days after the service upon him of such answer, reply to the same, admitting or specifically denying under oath, each allegation contained in such counter statement intended by him to be controverted on the trial, and file the same in the office aforesaid, and serve a copy thereof upon the contestee. [L. '85, p. 194, §4.]

**2302. Either party may serve notice of taking depositions.**—Either party, contestor or contestee, may, at the time of serving his statement or answer, serve upon the adverse party a notice of taking depositions in support of his statement or answer, if any such depositions are to be taken, to be used upon the trial of such contest. That, immediately after joining the issue of fact, as hereinbefore provided, both contestor and contestee shall proceed with all reasonable dispatch to take such depositions as he may desire to use on such trial. That written notice of the time and place of taking such depositions shall be given to the adverse party a sufficient length of time to enable such party to reach such place within the time, by the usual traveled route and upon a public conveyance, if any such conveyance plies between the place of serving such notice and the place of taking such depositions; otherwise, a reasonable time to make such journey; *Provided*, That nothing herein contained shall abridge the right of either party to take depositions upon reasonable notice prior to the joining of issue aforesaid in relation to any of the matters of controversy to be raised in such contest; but a failure to take depositions before the joining of issue shall not be held as laches against either party to such contest. [L. '85, p. 194, §5.]

**2303. Testimony in rebuttal may be taken.**—If, upon completion of taking any deposition, the adverse party has any witness or witnesses present before the officer taking such deposition whose testimony is sought to be used in rebuttal of the depositions so taken, such adverse party may proceed immediately to take the deposition of such rebutting witness or witnesses before such officer, upon giving written notice to the opposite party or his attorney; and such officer shall attach to said depositions a copy of said notice, with proof of service; the said rebutting depositions shall be returned by the officer taking the same, in the same manner as hereinafter provided for returning depositions in chief; *Provided, always*, That such adverse party shall be at his own proper cost and expense in procuring such depositions and the return thereof. [L. '85, p. 195, §6.]

**2304. Time of taking depositions—Trial.**—The time for taking depositions, by either party, to be used upon the trial of such contest, shall expire three days prior to the meeting of the next general assembly. Both parties may take depositions at the same time, but neither party

shall take depositions at two or more different places at the same time. Both parties must be ready, with all their testimony, to proceed with the trial of such contest, when called for trial by the body authorized to try the same; but nothing herein contained shall be construed to abridge the right of either branch of the general assembly, upon good cause shown, to extend the time to take depositions, or to send for and examine any witness, or to take any testimony it may desire to use on the trial of such contest. [L. '85, p. 195, §7.]

**2305. Who may take depositions—Witnesses.**—Any county judge, or justice of the peace, or notary public, of a county in the district where the contest arises, may issue subpoenas in every such contested election case, and shall have power to compel the attendance of witnesses, take such depositions, and certify the same, according to the rules for taking depositions in the district court. [L. '85, p. 195, §8.]

**2306. Depositions to be certified and sent to secretary of state.**—The officer before whom such depositions shall be taken shall immediately, upon the conclusion of the taking thereof, certify to the same, and enclose the same, together with the notices for taking such depositions, and the proof of service of such notices, in an envelope, and seal the same up, and transmit the same by mail, or by the hands of a sworn officer, to the secretary of state, with an endorsement thereon showing the nature of the papers, the names of the contesting parties, and the branch of the general assembly before which the contest is to be tried. [L. '85, p. 196, §9.]

**2307. Secretary of state transmit contest papers to presiding officer.**—The secretary of state shall deliver the same, unopened, together with the statement of contestor, answer of contestee, and reply, if any there be, to the presiding officer of the body in which the contest is to be tried, immediately upon the organization of such body, or so soon thereafter as the same may come to his possession; and such presiding officer shall, immediately upon the receipt thereof, give notice to the body over which he presides that such papers are in his possession. [L. '85, p. 196, §10.]

#### 4. COUNTY OFFICERS.

Section  
**2308. Who may contest—Causes of contest.**  
**2309. Causes insufficient to set aside election.**  
**2310. County judge try contests—Bond of contestor.**  
**2311. Contestor file statement—Contents.**  
**2312. Issuance and service of summons—Answer of contestee.**  
**2313. Contestor shall file reply.**  
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Section  
**2315. Procedure same as in county court—Evidence not used against witness.**  
**2316. Examination of poll book and ballot box—Recount of votes.**  
**2317. Judgment.**  
**2318. Costs.**  
**2319. Contest of town and precinct election—No appeal.**

**2308. Who may contest—Causes of contest.**—The election of any person, declared duly elected to any county office, except the office of county judge, may be contested by any elector of such county.

*First*—When the contestee is not eligible to the office to which he has been declared elected.

*Second*—When illegal votes have been received, or legal votes rejected, at the polls, sufficient to change the result.

*Third*—For any error, or mistake, in any of the boards of judges, or canvassers, in counting or declaring the result of the election, if the error, or mistake, would affect the result.

*Fourth*—For mal-conduct, fraud, or corruption on the part of the board of registry, or judges of election, in any precinct, or ward, or any of the boards of canvassers, or on the part of any member of such boards.

**Fifth**—For any other cause (though not above enumerated), which shows that another was the legally elected person. [L. '85, p. 196, §11.]

1. The provision of Revised Statute Section 2312 that where the reception of illegal votes is the ground of a contest a list of the persons alleged to have voted illegally must be set forth in the statement of contest, is mandatory, and must be strictly construed. A defect in this respect cannot be amended. *Sugar City vs. Commissioners*, 57 Colo., 432.

**2309. Causes insufficient to set aside election.**—The matter contained in the second, third, fourth and fifth causes of contest shall not be held sufficient to set aside the election, unless such causes be found sufficient to change the results. [L. '85, p. 196, §12.]

**2310.—County judge try contests—Bond of contestor.**—All contested election cases of county officers, except county judges, shall be tried and determined by the county judge of the county in which the contest arises; but before the county judge shall be required to take jurisdiction of the contest, the contestor must file, with the clerk of said court, a bond, with sureties, to be approved by said judge, running to said contestee, and conditioned to pay all costs in case of failure to maintain his contest. [L. '85, p. 196, §13.]

1. Under the act of 1885 the county judge sitting in term time, in his regular capacity as the county court, is invested with jurisdiction to try and determine contested election cases of county officers. Whether the county judge sitting in vacation may exercise such jurisdiction, not determined. *Valles vs. Brown*, 16 Colo., 462.

**2311. Contestor file statement—Contests.**—The contestor shall file, in the office of the clerk of the county court, within ten days after the day when the votes are canvassed, a written statement of his intention to contest the election, setting forth the name of the contestor, that he is an elector of the county; the name of the contestee; the office contested; the time of the election, and the particular cause or causes of the contest; which statement shall be verified by the affidavit of the contestor, or some elector of the county, that the causes set forth in such statement are true, as he is informed and verily believes. [L. '85, p. 197, §14.]

1. Section 14 of the act is to be construed as a statute of limitations upon a summary proceeding; and when the period for filing the statement under said section has fully elapsed, excluding the day when the votes are canvassed, the time cannot be extended merely on the ground that the last day happens to fall on Sunday. *Valles vs. Brown*, 16 Colo., 462.

**2312. Issuance and service of summons—Answer of contestee.**—The clerk of the county court shall thereupon issue a summons in the ordinary form, in which the contestor shall be named as plaintiff and the contestee as defendant, stating the court, in which the action is brought, the county in which the statement is filed, and a brief statement of the cause or causes of contest, as set forth in contestor's said statement, which said summons shall be served upon contestee, in the same manner as other summons are served out of the county court of this state and within ten days after the filing in said court the written statement of contestor's intention, required to be filed, in contesting elections. The contestee shall, within ten days after the service of such summons, make and file his answer to the same with the clerk of said court, in which he shall either admit or specifically deny each allegation contained in such statement intended to be controverted by contestee on the trial of such contest, and shall set up in such answer any counter statement, embraced in any of the causes hereinbefore enumerated, as causes of contest in the relation to county officers, which he relies upon as entitling him to the office to which he has been declared elected. When the reception of illegal or the rejection of legal votes is alleged as the cause of the contest, a list of the number of persons who so voted, or offered

to vote, shall be set forth in the statement of contestor, and shall be likewise set forth in the answer of contestee, if any such cause is alleged in his answer by way of counter statement. [L. '07, p. 281, §1; amending L. '85, p. 197, §15.]

1. A proper construction of the act of 1885 (Laws 1885, p. 197), providing for contesting the election of county officers, requires each party to give the other notice, in the statements filed, of the names of such persons as he claims illegally voted for his competitor, and those whose votes for himself were illegally rejected. *Schwarz vs. County Court*, 14 Colo., 44.

2. The statements required by the statute are necessary to give the courts jurisdiction; and where no effort is made by the contestor to comply with the requirements of the act in this regard, and a plea to the jurisdiction of the court is interposed by the contestee, setting up such defect, the court is without jurisdiction to proceed with a trial upon the merits. The statute furnishes a complete system of procedure within itself, and before a contestor can legally invoke the jurisdiction of the court he must state the facts required to bring his case within the purview of the statute. *Schwarz v. County Court*, 14 Colo., 44.

3. The omission to furnish the list of names required by statute cannot be justified by subsequently alleging that the information necessary to prepare the same was in the hands of contestee, by whose fraud and violence contestor was prevented from obtaining it, when no effort was made in the first instance to either comply with the statute or to excuse the failure. *Schwarz vs. County Court*, 14 Colo., 44.

4. Where it does not appear that any attempt has been made to comply with the statutory requirement by furnishing the list, and no excuse is offered for failing to do so, amendment of the petition for that purpose, at a late day in the proceedings, is unwarrantable, in the absence of a statute directly authorizing its amendment. *Schwarz vs. County Court*, 14 Colo., 44.

5. Where in a special proceeding the statute makes no provision for amendments, those of a substantial character are not to be allowed. *Sugar City vs. Commissioners*, 57 Colo., 432.

**2313. Contestor shall file reply.**—When the answer of contestee contains new matter constituting a counter statement, the contestor shall, within ten days after the filing of such answer, reply to the same, admitting or specifically denying, under oath, each allegation contained in such counter statement, intended by him to be controverted on the trial, and file the same in the office of said clerk. [L. '85, p. 198, §16.]

**2314. Time of trial—Testimony—Depositions—Appeals.**—Immediately after the joining of issue, as aforesaid, the county judge shall fix a day for the trial to commence, not more than twenty nor less than ten days after the joining of issue, as aforesaid, and such trial shall take precedence of all other business in said court. The testimony may be oral, or by depositions taken before any officer authorized to take depositions. Any depositions taken to be used upon the trial of such contest may be taken upon four days' notice thereof. The county judge trying such cause shall cause the testimony to be taken in full and filed in said cause. The trial of such causes shall be conducted according to the rules and practice of the county court in other cases. An appeal from the judgment and final determination in any cause may be taken to the supreme court, the same as in other causes tried in said court; *Provided*, That such appeal be prayed for, bill of exceptions settled, bond for costs executed and filed, and the record transmitted to the clerk of the supreme court within twenty days from the date of entering such judgment. The supreme court shall advance such cause to the head of the calendar, and hear and determine the same with all reasonable dispatch. [L. '85, p. 198, §17.]

1. Upon the production of evidence tending to show error, mistake, fraud, malconduct or corruption on the part of the election board, or any of its members, in the matter of receiving, numbering, depositing or canvassing the ballots, or other illegal or irregular conduct in respect thereto, an inspection and comparison of the ballots with the poll lists should be allowed, in connection with the oral evidence in reference thereto. *Clanton vs. Ryan*, 14 Colo., 419.

2. In a county election contest, the statement of contestor that he is "an elector of the county" is a material averment, and, if denied by the answer, must be proved, or the contest as such must fail; nor is the contestor excused from producing evidence in support of such averment on the ground that other competent evidence is refused. *Clanton vs. Ryan*, 14 Colo., 419.

3. This section is referred to in *Dickinson vs. Freed*, 24 Colo., 483.

**2315. Procedure same as in county court—Evidence not used against witness.**—The style and form of process, the officers by whom served, and the manner of service of process and papers and the fees of officers shall be the same as in the county court. It shall be lawful to require any person called as a witness who voted at such election to answer touching his qualifications as a voter; and, if he was not a qualified voter in the precinct or ward in which he voted, and the witness answers such questions as may be propounded to him upon the trial of such contest, no part of his testimony shall be used against him in any criminal action, except for perjury in giving such testimony. [L. '85, p. 198, §18.]

**2316. Examination of poll book and ballot box—Recount of votes.**—If, upon the trial of any contested election for any officer mentioned in this act, it be proven that a vote or votes that were illegal were cast in any precinct or ward, or if the statement or counter statement sets forth an error in canvass, as hereinbefore set forth in the fourth cause of contest, the general assembly, or either branch thereof, or the trial judge provided for in this act (as the case may be), shall have power, if such illegal vote or votes or error in canvass be sufficient to change the result, to send to the precinct or ward where such illegal voting or error in canvass was done, and obtain of their custodians the poll books and ballot box used at such election, and, when so obtained, shall have the power to take out of the ballot box the poll book and ballots bearing the number corresponding to the number opposite the name on the poll book of the persons who have thus been proven to have voted illegally. The ballot or ballots so taken from the ballot box shall be examined, and, if it be found that any or all of them bear the name of either of the parties, they shall, or so many of them as do bear the name of such party, be deducted from his vote, and the determination shall be in accordance with the result after such deduction shall have been made. In all cases where there has been an error in the canvass of the vote there shall be a recount of the ballots in such ballot box, and the determination shall be in accordance with such recount. [L. '85, p. 198, §19.]

1. This section is referred to in *Rhode vs. Steinmetz*, 25 Colo., 302, 332.

2. Contestor entitled to a recount of the ballots, as of course. *Wiley vs. McDowell*, 55 Colo., 236.

**2317. Judgment.**—The court shall pronounce judgment whether the contestee or any other person was duly elected, and the person so declared elected will be entitled to the office, upon qualification. If the judgment be against the contestee, and he has received his certificate, the judgment annuls it. If the court finds that no person was duly elected, the judgment shall be that the election be set aside. [L. '85, p. 199, §20.]

**2318. Costs.**—Judgment for costs, and execution thereon, shall be issued in the same manner and like effect as in any case pending or determined in the county court. The county judge shall have the same authority to enforce any order made at such trial and final judgment therein, as in other case tried in the said court. [L. '85, p. 199, §21.]

## 5. TOWN, PRECINCT AND SCHOOL OFFICERS.

**2319. Contest of town and precinct election—No appeal.**—Contested election of town and precinct officers shall be tried before the county court, as hereinbefore provided for the trial of contest of county officers, so far as the same is practicable; but the judgment rendered in such cause shall be final, and no appeal to the supreme court therefrom shall lie. [L. '85, p. 199, § 22.]

1. Special proceedings for contesting the election of municipal officers are favored by both the constitution and the statute. It is not to be presumed that the legislature would knowingly withhold obedience to the constitution. *County Court Garfield County et al vs. Schwarz*, 13 Colo., 291.

2. The word "Town" appearing in Session Laws of 1885, page 199, Section 22, is held to refer to incorporated towns and not "townships." County Court Garfield County et al vs. Schwarz, 13 Colo., 291.

3. The county court has no jurisdiction to hear and determine an election contest between claimants to the office of mayor of a city of the second class. Booth, Petitioner, vs. The County Court of Arapahoe County, 18 Colo., 561.

4. The city council in cities of the first and second class is designated by statute as the tribunal to try election contests between its members. Booth, Petitioner, vs. The County Court of Arapahoe County, 18 Colo., 561.

5. The mayor of a city of the second class being a member of the city council, the contest of his election is cognizable by that body. Booth, Petitioner, vs. The County Court of Arapahoe County, 18 Colo., 561.

#### N. MISCELLANEOUS PROVISIONS.

Section		Section	
2320.	Application of Chapter.	2324.	Secretary of state send poll books—Tally lists—County clerk's duty.
2321.	Employee entitled to two hours to vote.	2325.	State central committee control party controversies.
2322.	Sunday included in computation of time.	2326.	Chairman file membership of committee.
2323.	Ballots preserved — Ballot boxes.		

2320. Application of chapter.—This chapter shall not apply to any election for school officers held at any time other than a regular election for state, county or city officers, nor to any special election at which no persons are to be voted for for any city, county or state office. [L. '91, p. 143, §2.]

2321. Employee entitled to two hours to vote.—Any person entitled to vote at a general election held within this state shall, on the day of such election, be entitled to absent himself away from any service or employment in which he is then engaged or employed for a period of two hours between the time of opening and the time of closing the polls, and any such absence shall not be sufficient reason for the discharge of any such person from such service or employment, and such voter shall not, because of so absenting himself, be liable to any penalty, nor shall any deduction be made on account of such absence from his usual salary or wages (except when such employee is employed and paid by the hour). *Provided, however,* That application shall be made for such leave of absence prior to the day of election. The employer may specify the hours during which such employe may absent himself as aforesaid. Any person or corporation who shall refuse to his or its employe the privilege hereby conferred, or who shall subject an employe to a penalty or reduction of wages because of the exercise of such privilege, or who shall directly or indirectly violate the provisions of this act, shall be deemed guilty of a misdemeanor. [L. '91, p. 165, §38.]

2322. Sunday included in computation of time.—Sunday shall be included in all computations of time made under the provisions of this act. [L. '91, p. 165, §40.]

2323. Ballots preserved—Ballot boxes.—The proper ballots, when not required to be taken from the ballot box for the purpose of election contests, shall remain in the ballot box in the custody of the county clerk and recorder until the next election, when before opening the polls, the ballot box shall be opened in the presence of the judges, and the ballots destroyed by fire; *Provided,* That if the ballot boxes be needed for a special election before the legal time for commencing any proceedings in the way of contests shall have elapsed, or in case such judges, at the time of holding of such special election, have knowledge of the pendency of any contest in which the ballots would be needed, the said judges shall preserve the ballots in some secure manner and provide for their being so kept, that no one can ascertain how any elector may have voted. [G. S., §1221; L. '83, p. 186, §6; amending G. L., §997.]

1. The court below, in a contested election case in which fraud was alleged, refused to require the opening of the ballot boxes and a recounting of the ballots until some evidence of the fraud alleged was introduced. *Held,* that its discretion was, under the circumstances, commendably exercised. *Kindel vs. Le Bert*, 23 Colo., 385.

**2324. Secretary of state send poll books—Tally lists—County clerk's duty.**—It shall be the duty of the secretary of state to make out a complete form of poll books, tally lists, and all the forms required by this act, to be used by judges of election and the county clerks, and send printed copies thereof to the county clerk of each county, and he shall cause to be printed in pamphlet form such parts of this act as are necessary for the guidance of the judges of election in the discharge of their duties, and to send printed copies thereof to the county clerk of each county for him to distribute to the judges in each precinct or ward. [G. S., §1219; G. L., §995.]

**2325. State central committee control controversies of party.**—The state central committee of any political party in this state shall have full power to pass upon and determine all controversies concerning the regularity of the organization of that party within and for any congressional, judicial, senatorial or representative district, or county, or city, in this state, and also concerning the right to the use of the party name, and may make such rules governing the method of passing upon and determining such controversies as it may deem best, unless such rules shall have been theretofore provided by the state convention of such party, and all such determinations upon the part of the state central committee shall be final; *Provided, however,* That from the time the state convention of such party convenes until the time of its final adjournment such state convention shall have all the powers above given to the state central committee, but not otherwise; *And, provided, further,* That the state convention of such party may provide rules that shall govern the state central committee in the exercise of the powers herein conferred upon such committee. [L. '01, p. 169, §1.]

1. Under the act, Session Laws, 1901, page 169, the state central committee of a political party, or the state convention while in session, has exclusive jurisdiction to determine all controversies between factions of the same party as to which is the regular organization and entitled to the party name and to make and file nominations for office under the party name within any district, county or city of the state. *People vs. District Court, 32 Colo., 15.*

2. The act, Session Laws, 1901, page 169, conferring upon the state central committees of political parties jurisdiction to hear and determine factional controversies as to the regularity of the organization of the party within any district, county or city of the state, is not in violation of Section 11, Article VI of the Constitution on the grounds that it divests the district courts of jurisdiction in such causes and confers it upon another tribunal, as the district courts have no such jurisdiction in the absence of a statute conferring it. *People vs. District Court, 32 Colo., 15.*

3. Where there exists a state central committee of a political party, factional disputes of subordinate divisions of the party must be referred to such committee, and the courts have no jurisdiction in such factional and internal disputes between members of the same party although the committee may not have passed thereon. *People vs. District Court, 32 Colo., 15.*

4. Where a district court is proceeding without jurisdiction to determine a factional dispute between members of the same political party, and the parties objecting to such proceeding have no speedy and adequate remedy at law, no petition to the supreme court a writ of prohibition will issue to prevent the court from taking any further action in the matter except to dismiss the proceedings. *People vs. District Court, 32 Colo., 15.*

**2326. Chairman file membership of committee.**—Within ten days after the adjournment of the state convention of any political party at which a state central committee is selected, the chairman and secretary of said convention shall under oath file with the secretary of the state a full and complete roll of the membership of said state central committee. [L. '01, p. 169, §2.]

1. The filing of a roll of members of the state central committee of a political party with the secretary of state as required by Section 2 of the act, Session Laws, page 169, is not a condition precedent to the exercise by the committee of the power to determine factional disputes in subordinate divisions of the party, and in the case at bar it appearing that the faction now challenging the power of the committee upon that ground has heretofore invoked the jurisdiction of the committee to act upon the controversy, it is estopped to deny the committee's authority. *People vs. District Court, 32 Colo., 15.*

## II. SPECIAL ELECTIONS AND VACANCIES.

Section	Section
2327. Proceedings.	2332. When officer qualify—Elected and appointed hold different terms.
2328. Special elections—Canvass.	2333. Vacancies in county office—County commissioners appoint.
2329. Vacancies in general assembly—Governor issue writs of election.	2334. Governor appoint county commissioners.
2330. Vacancy in congress.	
2331. Vacancies in state and county office, how filled.	

**2327. Proceedings.**—The same proceedings shall be had in all cases of special elections as are herein provided for general elections, so far as the same may be applicable. [G. S., §1271; G. L., §1047.]

**2328. Special elections—Canvass.**—Special election shall be conducted and the results thereof canvassed and certified in all respects as near as practicable in like manner as general elections, except as otherwise provided; but special elections shall not be held, unless when required by public good, and in no case within ninety days next preceding a general election. [G. S., §1164; G. L., §940.]

**2329. Vacancies in general assembly—Governor issue writs of election.**—Whenever a vacancy shall occur in the office of senator or member of the house of representatives in any county or counties or district in this state, entitled by law to such senator or representative, the governor shall, upon satisfactory information thereof, and as soon as the necessity is apparent, issue a writ or writs of election to the sheriff or sheriffs of said county or counties, entitled by law to such senator or representative, as aforesaid, directing him to give notice of a special election within such county or counties on a day specified in such writ or writs, for the purpose of filling such vacancy; and the sheriff shall proceed to give notice of the time and place of holding such election, as in other cases, and such election shall be held and conducted, and the returns thereof be made to the county clerks, in the same manner and within the time specified in this act. [G. S., §1163; G. L., §939.]

**2330. Vacancy in congress.**—Whenever any vacancy shall happen in the office of representative in congress from this state, it shall be the duty of the governor to appoint a day to hold a special election to fill such vacancy, and cause notice of such election to be given as required in section twenty of this act. [G. S., §1167; G. L., §943.]

[Section 20 above referred to is section 2143.]

**2331. Vacancies—How filled.**—All vacancies in any state or county office, and in the supreme or district courts, unless otherwise provided for by law, shall be filled by appointment by the governor until the next general election after such vacancy occurs, when such vacancy shall be filled by election, and the district judge shall fill all vacancies in the office of district attorney in his district by appointment until the next general election. [G. S., §1159; G. L., §935.]

This section is referred to in *People vs. Wright*, 6 Colo., 92, 95, 96.

**2332. When officer qualify—Elected and appointed hold different term.**—Any of the said officers that may be elected or appointed to fill vacancies may qualify and enter upon the duties of their office immediately thereafter, and if elected they may hold the same during the unexpired term for which they were elected, and until their successors are elected and qualified, but if appointed they shall hold the same only until their successors are elected and qualified. [G. S., §1162; G. L., §938.]

1. This section is referred to in *People vs. Wright*, 6 Colo., 92, 95, 96.

2. One appointed to fill the vacant and unexpired term of a public office holds precisely as his predecessor would have done had the vacancy not occurred. *People vs. De Guelle*, 47 Colo., 13.

3. The provisions of Section 9 of Article XIV. of the Constitution are limited by Sections 10 and 11 of Article XII. One elected to a public office has a contingent or inchoate right which becomes absolute upon qualification. No one else can enter into the office during the term for which another is elected, until the officer elected is ousted, or his right terminated, which can never occur until the day appointed by law for the commencement of his term. If at that date he has failed to qualify, the office is vacant. Therefore, where the sheriff incumbent was re-elected, but failed to qualify for the second term, and died before his first term expired, one appointed by the board of county commissioners to the vacancy, held only to the second Tuesday of the succeeding January, the day appointed by law for the commencement of the second term of his predecessor, even though by express terms, his appointment was "until the next general election;" that upon the second Tuesday of the succeeding January there was a vacancy, and one then appointed by the county commissioners to fill it was entitled to the office until the next general election. *People vs. De Guella*, 47 Colo., 13.

**2333. Vacancies in county office—County commissioners appoint.**—All vacancies in any county or precinct office of any of the several counties of the state, except that of the county commissioner, shall be filled by appointment by the county commissioners of the county in which the vacancy occurs, until the next general election, when such vacancy shall be filled by election subject to the provisions of sections twenty-nine, article six, of the constitution. [G. S., §1165; G. L., §941.]

[See Constitution, art. VI, section 29.]

1. See notes 2 and 3 under Section 2332, *supra*.

2. The county clerk elect, dying before qualification, a vacancy in the office occurs on the expiration of the term of the then incumbent, to be filled by appointment of the county commissioners. *Gibbs vs. People*, 66 Colo., 414.

**2334. Governor appoint county commissioners.**—Whenever the governor appoints a county commissioner to fill a vacancy in any county he shall appoint a person who is a resident of the county and of the commissioner district of the county in which the vacancy exists. [G. S., §1166; G. L., §942.]

### III. ELECTION OF PRESIDENT.

Section  
2335. When electors meet—Vacancies, how filled—Duties.

Section  
2336. Fees of electors—Special elections—Call—Canvass.

**2335. When electors meet—Vacancies—How filled—Duties.**—The electors of president and vice-president of the United States shall convene at the capitol of the state, in the office of the governor at the Capitol Building in Denver, on the second Monday in January, next after their election, at the hour of twelve o'clock at noon of that day, and take the oath required by law and qualify as such electors; and if there shall be any vacancy in the office of electors, occasioned by death, refusal to act, neglect to attend, or other cause, the elector or electors present shall, immediately proceed to fill such vacancy in the electoral college; and when the vacancies shall have been filled as herein provided they shall proceed to perform the duties required of such electors by the constitution and laws of the United States, and vote for president and vice-president by open ballot. It shall be the duty of the secretary of state to give notice in writing to each of such electors, at least ten days prior thereto, of the time and place of said meeting, and when convened, to provide such electors with the necessary blanks, forms, certificates or other papers or documents required to enable them to properly perform their duties, and if desired such electors may have the advice of the attorney general of the state respecting their official duties. Chapter 187, page 651, Laws 1921.

[But see 1 U. S. Comp. Stats. Sec. 199 et sec.]

**2336. Fees of electors—Special elections—Call—Canvass.**—Every elector of this state for the election of president and vice-president of the United States, hereafter elected, who shall attend and give his vote for those officers at the time and place appointed by law, shall be entitled

to receive the sum of five dollars per day for each day's attendance at such election, and fifteen cents per mile for each mile he shall travel in going to and returning from the place where the electors shall meet, by the most usual traveled route, to be paid out of the general contingent fund, and the auditor of state shall audit the amount and draw his warrant for the same. There shall be an election held in this state for the election of such electors at the times appointed by any law of congress or the constitution of the United States for such election, and when such election shall be special, the same shall be called, held, and the votes polled, canvassed in all respects as at a general election, and the duties of the electors so elected shall be the same as prescribed by law for electors elected at a general election. [G. S., §1215; G. L., §991.]

#### IV. OFFENSES.

Section		Section	
2361.	Voting twice—Penalty.	2379.	Punishment of offenses— Witnesses.
2362.	Influencing vote—Penalty— Bribery—Threat—Penalty.	2380.	Judge signing wrongfully— Penalty.
2363.	Unlawful to give or advance money or promise employ- ment to influence voter.	2381.	Penalty for making false af- fidavit.
2364.	Unlawful to receive money or employment or contract for valuable consideration to vote.	2382.	Penalty for procuring false registry.
2365.	Unlawful for candidate to make bet or wager with voter.	2383.	Penalty for adding names to completed registry.
2366.	Unlawful to use violence or intimidation to influence voters.	2384.	Fines paid for use of school fund.
2367.	Unlawful to discharge or promote employes to influ- ence vote.	2385.	Closing saloons—Penalty for selling liquors.
2368.	Candidates file statements of expense incurred—Chair- men and secretaries of central committees file statement.	2386.	Selling liquor between sun- rise and sunset on election day.
2369.	Unlawful to interfere with election official, ballot box, poll book, etc.	2387.	Personating voter—Penalty.
2370.	Offender competent witness —Testimony not to be used against witness.	2388.	False swearing—Penalty.
2371.	Penalties for offenses.	2389.	Suborning perjury—Penalty.
2372.	Applicable to all elections.	2390.	Punishment for neglect of officers—Misconduct.
2373.	Penalty for exposing ballot— False statement—Interfer- ence with voter.	2391.	Judge admitting illegal vote —Penalty.
2374.	Penalty for destruction of supplies or hindering voter.	2392.	Bribing or influencing vote— Menace—Penalty.
2375.	Penalty for destroying cer- tificates of nomination— False endorsement.	2393.	Voting in wrong wards— Penalty.
2376.	Penalty for neglect of duty— Destruction of ballots— Breaking seal on ballot.	2394.	Receiving bribe—Penalty.
2377.	Electioneering — Removing ballot—Return of ballot to judges.	2395.	Mutilating, taking away or destroying poll book — Penalty.
2378.	Unlawful to take liquor into polling place.	2396.	Frauds at primaries or con- ventions.
		2397.	Bribery at primaries or con- ventions.
		2398.	Members of another party may not vote.
		2399.	Penalty.
		2400.	Frauds by primary or con- vention officials—Penalty.
		2401.	Employers not to influence employes.
		—.	Forging ballots.
		—.	False certification.
		—.	Offenses by officials in charter cities.

2361. Voting twice—Penalty.—If any elector shall vote more than once, or, having voted once, shall offer to vote again, at any election, or shall offer to deposit in the ballot box, at any election, more than one ballot, he shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined not exceeding one hundred dollars or imprisoned in the county jail not exceeding sixty days. [G. S., §1183; G. L., §959; amend-  
ing by implication G. S., §874; G. L., §752; R. S., p. 235, §153.]

[For voting in wrong ward or precinct, see section 2393.]

2362. Influencing voter—Bribery—Threat—Penalty.—If any person shall, by bribery, menace, treating or other corrupt means or device

whatsoever, either directly or indirectly, attempt to influence any elector of this state in giving his vote at any election, every person so offending and being thereof convicted, shall be fined not exceeding five hundred dollars and shall thereafter be disqualified from voting at any election in this state for five years. [G. S., §875; G. L., §753; R. S., p. 230, §154.]

[See Colorado Constitution, art. VII, section 10.]

**2363. Unlawful to give or advance money or promise employment to influence voters.**—It shall be unlawful for any person, directly or indirectly, by himself or through any other person:

(a) To pay, loan or contribute, or offer, or promise to pay, loan or contribute, any money or other valuable consideration to or for any voter, or to or for any other person, to induce such voter to vote or refrain from voting at any election provided by law, or to induce any voter to vote or refrain from voting at such election for any particular person or persons, or to induce such voter to go to the polls, or remain away from the polls at such election, or on account of such voter having voted or refrained from voting for any particular person, or having gone to the polls or remained away from the polls at such election.

(b) To give, offer or promise any office, place or employment, or to promise or procure or endeavor to procure any office, place or employment, to or for any voter, or to or for any other person, in order to induce such voter to vote or refrain from voting at any election provided by law, or to induce any voter to vote or refrain from voting at such election for any particular person or persons.

(c) To advance or pay, or cause to be paid, any money or other valuable thing to or for the use of any other person, with the intent that the same, or any part thereof, shall be used in bribery at any election provided by law, or to knowingly pay or cause to be paid, any money or other valuable thing to any person in discharge or repayment of any money, wholly or in part expended in bribery at any such election. [L. '91, p. 167, §1.]

**2364. Unlawful to receive money or employment or contract for valuable consideration to vote.**—It shall be unlawful for any person, directly or indirectly, by himself or through any other person:

(a) To receive, agree or contract for, before or during an election provided by law, any money, gift, loan or other valuable consideration, office, place, or employment, for himself or any other person, for voting or agreeing to vote, or for going or agreeing to go to the polls, or for remaining away or agreeing to remain away from the polls, or for refraining or agreeing to refrain from voting or for voting or agreeing to vote, or refraining or agreeing to refrain from voting for any particular person or persons, measure or measures, at any election provided by law.

(b) To receive any money or other valuable thing during or after an election provided by law, on account of himself or any other person, for voting or refraining from voting at such election, or on account of himself or any other person, for voting or refraining from voting for any particular person at such election or on account of himself, or any other person, for going to the polls or remaining away from the polls at such election, or on account of having induced any person to vote or refrain from voting, or to vote or to refrain from voting for any particular person or persons, measure or measures, at such election. [L. '91, p. 168, §2.]

**2365. Unlawful for candidate to make bet or wager with voter.**—It shall be unlawful for any candidate for public office, before or during any election provided by law, to make any bet or wager with a voter, or take a share or interest in, or in any manner become a party to, any such bet or wager or provide or agree to provide any money to be used by another in making such bet or wager, upon any event or contingency whatever, arising out of such election. Nor shall it be lawful for any person, directly or indirectly, to make a bet or wager with a voter, depending upon the result of any election provided by law, with the intent thereby

to procure the challenge of such voter or to prevent him from voting at such election. Any violation of this section shall be deemed a misdemeanor. [L. '91, p. 168, §3.]

**2366. Unlawful to use violence or intimidation to influence voters.—**It shall be unlawful for any person directly or indirectly, by himself or any other person in his behalf, to make use of any force, violence, or restraint, or to inflict, or threaten the infliction by himself or through another person, of any injury, damage, harm or loss, or in any manner to practice intimidation upon or against any person in order to induce or compel such person to vote or refrain from voting for any particular person or persons, measure or measures, at any election provided by law, or on account of such person having voted or refrained from voting at any such election. And it shall be unlawful for any person, by abduction, duress, or any forcible or fraudulent device or contrivance whatever, to impede, prevent or otherwise interfere with the free exercise of the elective franchise of any voter, or to compel, induce or prevail upon any voter, either to give or refrain from giving his vote at any such election, or to give or refrain from giving his vote for any particular person at any such election. It shall be unlawful for any employer, either corporation, association, company, firm or person, in paying its, their or his employes the salary or wages due them, to inclose their pay in "Pay envelopes" upon which there is written or printed any political mottoes, devices or arguments, containing threats, express or implied, intended or calculated to influence the political opinion, views or actions of such employes. Nor shall it be lawful for any employer, either corporation, association, company, firm or person, within ninety days of any election provided by law, to put up or otherwise exhibit in its, their or his factory, workshop, mine, mill, boarding-house, office or other establishment or place where its, their or his employes may be working or be present in the course of such employment, any hand-bill, notice or placard containing any threat, notice or information that in case any particular ticket or candidate shall be elected, work in its, their or his place or establishment will cease in whole or in part or its, their or his establishment be closed, or the wages of its, their or his workmen be reduced; or other threats, express or implied, intended or calculated to influence the political opinion or actions of its, their or his employes. Any person or persons, or corporation violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and any person, whether acting in his individual capacity or as an officer or agent of any corporation so guilty of such misdemeanor shall be punished as hereinafter prescribed. [L. '91, p. 168, §4.]

**2367. Unlawful to discharge or promote employes to influence vote.—**It shall be unlawful for any corporation or any officer or agent of any corporation to influence or attempt to influence by force, violence or restraint or by inflicting or threatening to inflict any injury, damage, harm or loss, or by discharging from employment or promoting in employment, or by intimidation or otherwise in any manner whatever, to induce or compel any employe to vote or refrain from voting at any election provided by law, or to vote or refrain from voting for any particular person or persons at any such election. Any such corporation, or any officer or agent of such corporation, violating any of the provisions of this section, shall be deemed guilty of a misdemeanor, and be subject to the penalty hereinafter provided, and in addition thereto, any corporation violating this section shall forfeit its charter and right to do business in this state. [L. '91, p. 169, §5.]

**2368. Candidates file statements of expenses incurred—Chairmen and secretaries of central committees file statement.—**Every candidate who is voted for at any public election held within this state shall, within thirty days after such election, file as hereinafter provided, an itemized statement, showing, in detail, all the moneys contributed or expended by him, directly or indirectly, by himself or through any other person, in aid of his election. Such statement shall give the names of the various

persons who received such money, the specific nature of each item, and the purpose for which it was expended or contributed. There shall be attached to such statement an affidavit, subscribed and sworn to by such candidate, setting forth, in substance, that the statement thus made is in all respects true, and that the same is a full and detailed statement of all moneys so contributed or expended by him, directly or indirectly, by himself, or through any other person, in aid of his election. Candidates for office to be filled by the electors of the entire state, or any division or district thereof greater than a county, and candidates for either house of the general assembly, and for district judges, and for district attorney, shall file their statements in the office of the secretary of state; and candidates for town and city offices shall file their statements in the office of the town or city clerk, respectively, and candidates for county offices, and for all other offices not otherwise above expressly provided for, shall file their statements in the office of the clerk of the county wherein such election occurs. Within thirty days after each election, the chairman and secretary of state, county and city central committees of each and every political party presenting candidates, shall make and file a statement, under oath, setting forth in detail all sums of money received, from whom received, and to whom and for what purpose such money was paid by such committees during the preceding election. Certificates of state chairmen or secretaries shall be filed with the secretary of state, and for the county chairmen and secretaries with the clerk of the county, and by city chairmen and secretaries with the city clerk. Any person or persons who shall violate the provisions of this section shall be deemed guilty of a misdemeanor. Which certificates shall be preserved by the officers with whom they are filed until the next general election, and shall be open to the inspection of the public. [L. '91, p. 170, §6.]

[For Campaign Expenses, see also sections 28, 29 and 30, Primary Election Act herein.]

**2369. Unlawful to interfere with election official, ballot box, poll book, etc.**—Any person who, at any election provided by law in this state, shall interfere in any manner with any officer of such election in the discharge of his duty, or who shall induce any officer of any election, or officer whose duty it is to ascertain, announce or declare the result of any such election, or give or make any certificate, document or evidence in relation thereto, to violate or refuse to comply with his duty, or any law regulating the same, or who shall take, carry away, conceal or remove any ballot or ballot box, poll book or other thing from the polling place, or from the possession of the person or persons authorized by law to have the custody thereof, or who aids, counsels, procures, advises or assists any person or persons to do any of the acts aforesaid, shall be guilty of a crime, and shall be punished as hereinafter provided. [L. '91, p. 171, §7.]

[For Campaign Expenses, see also sections 28, 29 and 30, Primary Election Act herein.]

**2370. Offender competent witness—Testimony not to be used against witness.**—A person offending against any provision of sections one, two or seven of this act, is a competent witness against another person so offending, and may be compelled to attend and testify upon any trial, hearing, proceeding or investigation in the same manner as any other person. But the testimony so given shall not be used in any prosecution or proceeding, civil or criminal, against the person so testifying, except for perjury in giving such testimony. A person so testifying shall not thereafter be liable to indictment, prosecution or punishment for the offense with reference to which his testimony was given, and may plead or prove the giving of testimony accordingly, in bar of such an indictment or prosecution. [L. '91, p. 171, §8.]

[Sections 1, 2 and 7 referred to are sections 2363, 2364 and 2369.]

**2371. Penalties for offenses.**—Any person convicted of any of the crimes or offenses mentioned in sections one, two and seven of this

act shall be punished by a fine of not more than one thousand dollars or by imprisonment in the penitentiary for not less than one nor more than five years, or by both such fine and imprisonment; and any person, corporation or agent of a corporation, guilty of any offense herein made a misdemeanor shall, upon conviction, be punished by a fine not exceeding one thousand dollars, or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment. Any candidate for office who refuses or neglects to file a statement prescribed in section six of this act shall be deemed guilty of a misdemeanor, punishable as above provided, and shall also forfeit his office. [L. '91, p. 171, §9.]

[Sections 1, 2, 6 and 7 referred to are sections 2363, 2364, 2368 and 2369.]

**2372. Applicable to all elections.**—The provisions of this act shall extend so far as applicable to all elections provided by law, either general, special or primary. [L. '91, p. 172, §10.]

**2373. Penalty for exposing ballot—False statement—Interference with voter.**—A voter who shall, except as herein otherwise provided, allow his ballot to be seen by any person, with an apparent intention of letting it be known how he is about to vote, or who shall make a false statement as to his inability to mark his ballot, or any person who shall interfere or attempt to interfere with any voter when inside said enclosed space, or when marking a ballot, or who shall endeavor to induce any voter to vote or to show how he marked or has marked his ballot shall be punished by a fine of not less than five nor more than one hundred dollars. Any election judge or clerk shall report any person so doing to the district attorney for the county in which the election is held, whose duty it shall be to see that the offender is forthwith brought before the proper court. [L. '91, p. 162, §33.]

[Interference with watcher, see section 2369.]

**2374. Penalty for destruction of supplies or hindering voter.**—Any person who shall, prior to an election, wilfully deface or destroy any list of candidates posted in accordance with the provisions of this act, or who, during an election, shall wilfully deface, tear down, remove or destroy any card of instruction or sample ballot, printed or posted for the instruction of voters, or who shall, during an election, wilfully remove or destroy any of the supplies or conveniences furnished to enable a voter to prepare his ballot, or shall wilfully hinder the voting of others, shall be punished by fine of not less than five nor more than one hundred dollars, or by imprisonment in the county jail not exceeding three months, or by both fine and imprisonment. [L. '91, p. 163, §34.]

**2375. Penalty for destroying certificate of nomination—False endorsement.**—Any person who shall falsely mark or wilfully deface or destroy any certificate of nomination, or any part thereof, or any letter of acceptance, declination or resignation; or file any certificate of nomination, or letter of acceptance, declination or resignation, knowing the same, or any part thereof, to be falsely made, or suppress any certificate of nomination, or any part thereof, which has been duly filed; or forge any letter of acceptance, declination or resignation; or falsely make the official endorsement on any ballot, or wilfully destroy or deface any ballot or wilfully delay the delivery of any ballots, shall be punished by fine not exceeding one thousand dollars, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment. [L. '91, p. 163, §35.]

**2376. Penalty for neglect of duty—Destruction of ballots—Breaking seal on ballot.**—Every public officer upon whom any duty is imposed by this act who violates his said duty, or who neglects or omits to perform the same, shall be punished, except as otherwise in this act specially provided, by imprisonment in the county jail for a term not exceeding one year, or by a fine of not less than one hundred dollars and not more than three thousand dollars, or by both such fine and imprisonment.

Any person or officer having charge of official ballots who shall destroy or conceal or suppress them, except as in this act permitted, shall be guilty of a felony, and, upon conviction thereof, shall be punished by imprisonment in the penitentiary for not less than one year nor more than five years. Any person or officer who has undertaken to deliver official ballots to any city, town or county officer of election who neglects or refuses to do so, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by imprisonment in the county jail for not less than six months nor more than one year, or by fine of not less than two hundred and fifty dollars and not more than one thousand dollars, or by both said fine and imprisonment. Any election officer or watcher who shall reveal to any other person the name of any candidate for whom a voter has voted, or who shall communicate to another his opinion, belief or impression as to how or for whom a voter has voted, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by imprisonment in the county jail for not less than six months nor more than one year, or by fine of not less than two hundred and fifty dollars nor more than one thousand dollars, or by both fine and imprisonment. Any official or person, except those authorized by law, who shall break or loosen a seal on a ballot with the intent to disclose or learn the number of such ballot, shall be guilty of a misdemeanor. [L. '91, p. 163, §36.]

**2377. Electioneering—Removing ballot—Return of ballot to judges.—**No person shall do any electioneering on election day within any polling place or in any public street or room, or in a public manner, within one hundred feet of any polling place. No person shall remove any official ballot from the polling place before the closing of the polls. No person shall show his ballot after it is prepared for voting to any person in such a way as to reveal its contents, nor shall any person solicit the voter to show the same. No person, except a judge or a clerk of election, shall receive from any voter a ballot prepared for voting. No voter shall receive an official ballot from any other person than one of the judges or clerks of election having charge of the ballots, nor shall any person other than such election officer deliver an official ballot to such voter. No voter shall place any mark upon his ballot by means of which it can be identified as the one voted by him, and no other mark shall be placed upon any ballot prepared for voting other than the number of such voter on the poll list, to be placed thereon by the judge or clerk of election. Every voter who does not vote or deliver in the manner hereinbefore provided the ballots received by him from the election officers shall, before leaving the polling place or going outside the guard rail, return each such ballot to the officer from whom he received the same. Whoever shall violate any provision of this section shall be deemed guilty of a misdemeanor. But nothing herein contained shall prevent any person from receiving, delivering and voting an unofficial ballot in the contingency provided for in section twenty-two of this act. [L. '91, p. 164, §37.]

[Section 22 referred to is section 2243.]

**2378. Unlawful to take liquor into polling place.—**It shall be unlawful for any person or any election judge or clerk to introduce into any polling place, or to use therein or to offer to another for use therein, at any time while any election is in progress or the result thereof being ascertained by the counting of the ballots, any intoxicating, malt, spirituous or vinous liquors. It shall be unlawful for any officer or board of officers of any county or any city or town, whether incorporated under general law or by special charter, who may at any time be by law charged with the duty of designating polling places for the holding of any general or special election therein, to select therefor a saloon or a room within the distance of fifty (50) feet (measured in a direct line) of any saloon or other place where any intoxicating, malt, vinous or spirituous liquors are usually sold, to be drank when sold. [L. '91, p. 165, §39.]

**2379. Punishment of offenses—Witnesses.**—All acts, omissions and neglects of any person, official or corporation made an offense by the provisions of this act, and the punishment for which is not herein expressly designated, shall be punished by a fine of not less than one hundred nor more than one thousand dollars, or by imprisonment in the county jail for not more than one year, or by both fine and imprisonment. Any person so offending against any provisions of this act is a competent witness against any other person so offending, and may be compelled to attend and testify upon any trial, hearing, proceeding or investigation in the same manner as any other person. But the testimony so given shall not be used in any prosecution or proceeding, civil or criminal, against the person so testifying, except for perjury in giving such testimony. A person so testifying shall not thereafter be liable to indictment, prosecution or punishment for the offense with reference to which his testimony was given, and may plead or prove the giving of testimony accordingly in bar of such indictment or prosecution. [L. '91, p. 166, §42.]

**2380. Judge signing wrongfully—Penalty.**—Every judge of election, or person acting as such, on any board of registry who shall wilfully set his name on the registry roll opposite the name of any voter registered on such list, knowing him to be not legally entitled to be registered upon such list, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by fine of not less than three hundred (300) dollars nor more than one thousand (1,000) dollars, or be imprisoned not less than thirty (30) days nor more than ninety (90) days, or may be punished by both such fine and imprisonment. [G. S., §1275; G. L., §1052.]

**2381. Penalty for making false affidavit.**—If any person shall make an affidavit, as provided in section one hundred and twenty-six of this act, for the purpose of causing the name of any person to be registered in any ward or precinct in this state, and shall in such affidavit state falsely the name of such person to be registered or the fact of his having resided in such precinct or ward a sufficient length of time to entitle him to be so registered, or the place of his actual habitation or residence, or the fact of his age or of his residence within a sufficient time to entitle him to be registered, the person so making a false affidavit shall be deemed guilty of a wilful and corrupt perjury, and, on conviction, shall be punished accordingly. [G. S., §1276; L. '79, p. 57, §1, amending G. L., §1053.]

[Section 126 referred to is section 2380.]

**2382. Penalty for procuring false registry.**—Every person who shall procure his own name, or the name of any other person, to be registered on the list of registered voters called the registry list, in any ward or voting precinct in this state in which any election is or may be by law authorized to be held, and in which ward or precinct such person shall not be at the time of such registry entitled to be registered in such ward or voting precinct; or if any person shall procure or attempt to procure to be registered in any ward or voting precinct any fictitious name as the name of any person entitled to be registered in such ward or precinct, every person so procuring or attempting to procure such registry of the name of any person not by law entitled to be registered, or any fictitious name in manner aforesaid, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than two hundred (200) dollars nor more than five hundred (500) dollars, or be imprisoned not less than ten (10) nor more than forty (40) days for each and every offense, or may be punished by both such fine and imprisonment. [G. S., §1277; G. L., §1054.]

**2383. Penalty for adding names to completed registry.**—The registry of voters' names shall be completed on the evening next preceding each and every election appointed by law to be held in each and every precinct, and no name shall be added to the registry list in any ward or precinct after the close of the registration on the day preceding such

election; and in case any judge of election or person acting as member of any board of registry shall wilfully and knowingly add any name or names of any person or any fictitious or false name to the list of registered voters in any ward or voting precinct after the close of the registry of voters' names, on the next day preceding any election in such ward or voting precinct according to law, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine of not less than two hundred (200) dollars nor more than five hundred (500) dollars for each and every offense. [G. S., §1278; G. L., §1056.]

[See section 2249.]

**2384. Fines paid for use of school fund.**—All fines or forfeitures collected under the provisions of this act shall be paid to the county treasurer of the county wherein the offense was committed for the benefit of the school fund of such county. [G. S., §1279; G. L., §1056.]

**2385. Closing saloons—Penalty for selling liquors.**—No saloon or other place at which intoxicating liquors are sold shall be open during the day of any general or special election in this state. Any saloon keeper or other person who shall sell, barter or give away any intoxicating liquors during the day of any general or special election before the polls are closed on such day shall, for each and every offense, be liable to pay a fine of fifty dollars, or be imprisoned twenty days, or both, at the discretion of the court in which the case may be tried. [G. S., §1220; G. L., §996.]

**2386. Selling liquors between sunrise and sunset on election day.**—If any inn-keeper or any hotel, tavern, saloon or other place, whether licensed to vend spirituous, vinous, fermented or malt liquors or not, or any other person, shall barter, sell or give away to any person or persons any spirituous, vinous, fermented or malt liquors between the hours of sunrise and sunset on the day of any general election in this state, or within any incorporated city in this state, between the hours above named, on the day of the election of the mayor thereof, shall, upon conviction thereof before any justice of the peace or court of competent jurisdiction, forfeit and pay a fine of not less than ten nor more than one hundred dollars for the first offense, and for a second offense a fine of not less than fifty nor more than two hundred dollars. [G. S., §856; G. L., §851; R. S., p. 254, §247.]

**2387. Personating voter—Penalty.**—Any person who shall falsely personate any voter and vote under the name of such voter shall, upon conviction, be punished by confinement and hard labor in the state penitentiary not exceeding three years. [G. S., §1222; G. L., §998.]

**2388. False swearing—Penalty.**—If any elector challenged as unqualified, shall be guilty of wilful and corrupt false swearing or affirmation by any oath or affirmation prescribed by this act, such persons shall be adjudged guilty of wilful and corrupt perjury. [G. S., §1223; G. L., §999.]

**2389. Suborning perjury—Penalty.**—Every person who shall wilfully and corruptly procure any person to swear or affirm falsely as aforesaid shall be adjudged guilty of subornation of perjury, and shall, upon conviction thereof, suffer the punishment provided by law in cases of wilful and corrupt perjury. [G. S., §1224; G. L., §1000.]

**2390. Punishment for neglect of officers—Misconduct.**—If any officer on whom any duty is enjoined by this act shall be guilty of any wilful neglect of such duty, or of any corrupt conduct in the execution of the same, and be thereof convicted, he shall be deemed guilty of a misdemeanor, punishable by fine or imprisonment, the fine in no case to exceed the sum of five hundred dollars, nor the imprisonment the term of one year. [G. S., §1225; G. L., §1001.]

**2391. Judge admitting illegal vote—Penalty.**—In case any judge of election shall knowingly and wilfully permit any person to vote at any election who is not entitled to vote thereat, the said judge so offending shall, on conviction thereof, be adjudged guilty of a misdemeanor, and shall be sentenced to pay a fine not exceeding five hundred dollars, or be imprisoned in the county jail not exceeding six months. [G. S., §1226; G. L., §1002.]

[See L '10, p. 42, section 43.]

[See section 2380.]

**2392. Bribing or influencing vote—Menace—Penalty.**—If any person shall, by bribery, menace or other corrupt means or device whatsoever, either directly or indirectly, attempt to influence any voter of this state, in giving his vote or ballot, or deter him from giving the same, or disturb or hinder him in the free exercise of the right of suffrage at any election in this state, or shall fraudulently or deceitfully change or alter a ballot, or cause any other deceit to be practiced with intent fraudulently to induce such elector to deposit the same as his vote, and thereby have the same thrown out and not counted, every person so offending against the provisions of this act shall be deemed guilty of a misdemeanor, punishable by fine not exceeding two hundred and fifty dollars or by imprisonment not exceeding six months. [G. S., §1227; G. L., §1003.]

[See sections 2363 to 2367.]

**2393. Voting in wrong wards—Penalty.**—Any person who, at any general or special election, or any city or charter election, shall knowingly vote or offer to vote in any election precinct or ward in which he does not reside shall, on conviction, be adjudged guilty of a misdemeanor, and punishable by fine not exceeding two hundred dollars, or by imprisonment not exceeding six months. [G. S., §1228; G. L., §1004.]

**2394. Receiving bribe—Penalty.**—If any elector shall accept or receive from any person whomsoever any money or other valuable thing for and in consideration of his voting for or against any person or persons who are candidates at any election in this state, he shall be deemed guilty of a misdemeanor, and punishable by a fine not exceeding two hundred dollars, or by imprisonment not exceeding six months. [G. S., §1229; G. L., §1005.]

**2395. Mutilating, taking away or destroying poll book—Penalty.**—If any person shall mutilate or erase any name, figure or word in a poll book, taken or kept at any election; or if any person shall take away such poll book from the place where it has been deposited for safe keeping with an intention to destroy the same, or to procure or prevent the election of any person; or if any person shall destroy any poll book so taken and kept at any election, he or she shall be deemed guilty of a misdemeanor, and, on conviction, shall be fined not exceeding five hundred dollars or imprisoned not exceeding sixty days in the county jail. [G. S., §1230; G. L., §1006.]

[See section 2373.]

**2396. Frauds at primaries or conventions.**—Any person at any caucus, convention, or primary election, called by whatever authority, for the purpose of nominating public officers, to be voted for at any election held under the laws of this state, or under the ordinances of any city or town, or both, or at any caucus, convention or primary election, held for the purpose of choosing delegates to any convention to nominate any of the aforesaid officers, who shall:

*First*—Fraudulently vote or attempt to vote more than once; or

*Second*—Shall knowingly hand in two or more tickets deceitfully folded together; or,

*Third*—Shall add, or attempt to add, any illegal ballot to the ballots that have been cast; or,

*Fourth*—Shall knowingly procure, aid, counsel or advise another to vote or attempt to vote fraudulently, illegally or corruptly; or,

*Fifth*—Shall falsely personate any voter and vote or attempt to vote under his name, or under an assumed name; or,

*Sixth*—Shall fraudulently procure, aid, abet, or encourage, directly or indirectly, any person to attempt to falsely personate any voter, or to vote under an assumed name; or,

*Seventh*—Shall, by bribery, menace, or any other corrupt, unlawful, or fraudulent means, attempt to influence any voter in the casting of his vote; or,

*Eighth*—Shall receive any money or valuable thing, or the promise of either, for casting his vote for or against any person, or persons, measure or measures, or shall offer his vote for or against any person or persons, measure or measures, in consideration of money or other valuable thing, or the promise of either; in every such instance such person shall be guilty of a misdemeanor, and punished as provided by this act. [L. '87, p. 347, §1.]

[See Constitution, art. VII, section 11; also sections 2362, 2363 and 2364.]

**2397. Bribery at primaries or conventions.**—Any person at any caucus, convention, or primary election, called by whatever authority, for the purpose of nominating public officers, to be voted for at any election held under the laws of this state, or under the ordinances of any city or town, or both, or at any caucus, convention or primary election, held for the purpose of choosing delegates to any convention to nominate any of the officers aforesaid, who shall, with the intent to promote the election of himself, or any other person, at such caucus, convention or primary election. *First*—Furnish any public entertainment of any kind to any elector, or pay for, procure or engage to pay for, or in any way become liable for such entertainment; or, *Second*—Shall engage directly or indirectly to pay or deliver any money or property for any purpose, intended to promote the election of any person at any such caucus, convention, or primary election, except for the purpose of printing tickets or hand bills, and other papers, or for the purpose of holding public meetings for the discussion of public questions; in all such cases the person so offending shall be deemed guilty of a misdemeanor, and punished as provided for in this act. [L. '87, p. 348, §2.]

**2398. Members of another party may not vote.**—Any person at any such caucus, convention, or primary election as is described in this act, who is at the time a member in good faith of a different political party than the one holding such caucus, convention, or primary election, and who shall fraudulently participate in, and vote in such caucus, convention, or primary election, shall be deemed guilty of a misdemeanor, and punished as provided in this act. The question of the good faith of the voter shall be left as a question of fact to the jury. [L. '87, p. 348, §3.]

**2399. Penalty.**—Any person convicted of a misdemeanor under this act shall be fined by the court, in a sum not less than one hundred dollars, and not exceeding one thousand dollars, or shall be imprisoned in the county jail not less than thirty days and not more than nine months, or by both such fine and imprisonment. [L. '87, p. 349, §4.]

**2400. Frauds by primary or convention officials—Penalty.**—Any person in authority at any caucus, convention, or primary election, as described in this act, as judge of election, clerk of election, or otherwise, who shall: *First*—In any manner, dishonestly, or corruptly, or fraudulently perform any act devolving on him by virtue of the position of trust which he fills; or, *Second*—Shall knowingly aid or abet any other person to do any fraudulent, dishonest, or corrupt act or thing in reference to the carrying on of such caucus, convention or primary election, or the ascertaining, or promulgating of its true will, shall, in each case, be guilty of a felony, and may be punished by a fine of not less than three hundred dollars, nor more than two thousand dollars, or, by

imprisonment in the penitentiary for a term not to exceed two years, or by both such fine and imprisonment. [L. '87, p. 349, §5.]

[See section 2391.]

**2401. Employers not to influence employees.**—Incorporated employers of help shall not, in any manner, attempt to influence or control the action of their employes in casting their votes for or against any person or persons, measure or measures, at any caucus, convention, or primary election described in this act. The act of any boss, master workman, or one acting in authority among such employes, with the consent of the employer, shall be construed to be the act of such employer. Any employer violating this section shall be deemed guilty of a misdemeanor, and fined in a sum not less than five hundred nor more than five thousand dollars. Any number of distinct violations of this section occurring at the same caucus, convention or primary election may be charged in one indictment in different counts, and all tried in the same action, the jury specifying the counts, if any, on which the defendant is found guilty. [L. '87, p. 349, §6.]

[See Constitution, art. VII, section 11.]

**Forging Ballots.**—Every person who shall forge, alter, change or counterfeit any ballot before or after it has been cast or who shall cause said ballot to misstate in any way the wishes of the voter casting the same, shall be deemed guilty of a forgery and punished accordingly. [L. '15, p. 228, §1.]

**False Certification.**—Any notary public or any officer authorized by law to administer oaths, who shall knowingly make a false certificate in regard to a matter connected with an election held under the laws of this state, shall be guilty of a misdemeanor and fined in any sum not less than two hundred dollars nor more than five hundred dollars, or imprisoned in the county jail not less than three months nor more than six months, or both. Section 1, Chapter 114, page 290, Laws 1921.

**Offenses by Officials in Charter Cities.**—Every judge, clerk or other election official charged with any duty at or in connection with any election held in any city which shall have adopted a charter under the provisions of Article XX of the Constitution of the State of Colorado, who, while so acting, violates any duty imposed upon him by the laws of the State of Colorado, shall be punished by imprisonment in the county jail for a term not exceeding one year, or by a fine of not less than one hundred dollars and not more than three thousand dollars, or by both such fine and imprisonment. Section 1, Chapter 115, page 291, Laws 1921.

## V. LOCATION AND REMOVAL OF COUNTY SEATS.

Section	Section
1165. People of county may locate seat by election.	1171. Locating county seat—Special judges—Special boxes.
1166. Ballots—Majority—Notice of location.	1172. Special registry—Residence in county and precinct.
1167. Removal of county seats—Election.	1173. Polling places—Special ballot.
1168. If no choice, special election—Notice.	1174. Removal thirty days after canvass.
1169. County commissioners make survey.	1175. General election laws apply.—Contests.
1170. Unorganized counties not taxed for buildings.	1176. Election laws applicable to contest.

**1165. People of county may locate county seat by election.**—It is further provided that the people may locate permanently the county seat in any part of the county, by a vote of the majority of the legal voters in each county according to law. [G. S., §683; G. L., §370; R. S., p. 162, §40.]

1. The act of February 11th, A. D. 1881 (Laws 1881, 103, Revised Statutes Sections 1171-1176), was intended to establish a uniform procedure regulat-

ing all elections concerning county seats. It applies to the conduct of an election for the permanent location of a county seat. *Sugar City vs. Commissioners*, 57 Colo., 432.

2. In view of Section 2, Article XIV, and Section 1 of Article VII of the Constitution, whether the same rule as to residence should be adopted in elections for the location of a county seat, as in one for the removal of a county seat is a question for the legislature. The provisions of the act of 1881, as to this matter are within the legislative power. *Sugar City vs. Commissioners*, 57 Colo., 432.

**1166. Ballots—Majority—Notice of location.**—Whenever any county shall be organized hereafter, the qualified voters thereof are hereby empowered to select the place of their county seat by a vote at the first election held in the county for the choice of county officers. For that purpose each voter may designate in his ballot the place of his choice for the county seat; and when the votes are canvassed the place having a majority of all the votes polled shall be the county seat; and public notice of said location shall be given within thirty days, by the county commissioners, by posting up notices in three public places in the county. [G. S., §684; G. L., §371; R. S., p. 162, §41.]

1. See notes 1 and 2 under Section 1165.

**1167. Petition to county commissioners—Notice—Majority for change—Proviso in case there are no county buildings.**—Whenever the legal taxpayers of any county in this state are desirous of changing the county seat of the county in which they reside, from the place where such county seat has been permanently located, they may at any time, present to the county commissioners of such county, a petition signed by a majority of such taxpayers whose names shall appear on the last tax roll, provided that no names shall be withdrawn from said petition after the same has been presented to the Board of County Commissioners except in cases of actual fraud in the procuring of signatures to the same; and thereupon it shall be the duty of such commissioners to require the county clerk, in giving notice for the next general election, to notify the legal voters of said county, who have resided in the county six months and the election precinct ninety days next preceding such election, to designate upon their ballots at such election, the place of their choice, and if upon canvassing the votes polled or given, it shall appear that any one place has two-thirds of all legal votes polled or given, such place shall be the county seat, and notice of any change thereby made shall be given as provided by law; *Provided*, That where there are no county buildings and the petition so states, it shall not be necessary for such majority to be more than a mere majority of all the legal votes cast to effect such removal; *Provided, further*. That the term "legal taxpayers," as used in this section shall be held to mean and include only those persons who are qualified voters under the registration and election laws of this state, and who in the calendar year last preceding the year in which such petition is presented as aforesaid, shall have paid a tax, or be liable for the payment of such tax on real or personal property, assessed to them and owned by them in the county in which such petition is presented. [L. '13, p. 229.]

1. Under Section 1167 of the Revised Statutes, as amended by c. 105 of the Laws of 1911, a remonstrance to raise the question as to the value of county buildings is sufficient, if subscribed by one-fourth of the remaining taxpayers, after eliminating those whose names appear upon petition for the election. *Commissioners vs. People*, 61 Colo., 1.

**1168. If no choice, special election—Notice.**—If no place has a majority of all the votes polled in either of such elections for the location or change of the county seat, it shall be the duty of the county commissioners, within one month after any such election, to order a special election and give ten days' notice thereof, in each township in the county, at which election votes shall be taken by ballot the same as at the general election, and if no place then have a majority of all the votes, the county seat shall not be changed until the next general election, when a vote may again be taken as provided in section twenty-two. [G. S., §686; R. S., p. 163, §43.]

[Section 22 referred to is section 1166.]

**1169. County commissioners make survey.**—The aforesaid county commissioners shall have power to make all needful arrangements for having such county seat surveyed into lots, squares, streets and alleys, selling and disposing of the same, erecting a jail house, court house or other county buildings as to them may seem best. [G. S., §687; G. L., §372; R. S., p. 163, §44.]

**1170. Unorganized counties not taxed for buildings.**—The people of no unorganized county in this territory shall be taxed for the erection of any public buildings in the county to which they may be attached for judicial or military purposes. [G. S., §688; R. S., p. 162, §39.]

**1171. Locating county seat—Special judges—Special boxes.**—That whenever an election shall be ordered by the board of county commissioners of any county to ascertain the sense of the legal voters of such county upon the question of removal or location of the county seat of such county, it shall be the duty of such board of county commissioners to appoint special judges and registers of such elections, and to provide a special ballot box in each voting precinct, in which shall be deposited all the ballots cast at such election in such precinct on the question of location or removal of the county seat. [G. S., §1284; L. '81, p. 103, §1.]

1. See notes 1 and 2 under Section 1165.

**1172. Special registry—Residence in county and precinct.**—It shall be the duty of the judges and registers so appointed to make a special registration of the voters of each precinct who have resided in the county at least six months and in such precinct at least ninety days prior to the day designated for holding such election, which day shall be the day designated by law for holding a general election, and no other. [G. S., §1285; L. '81, p. 114, §2.]

**1173. Polling places—Special ballot.**—The election shall be held at the same places at which the general election is ordered to be held, but the vote for or against removal or location of the county seat shall be by a special ballot, separate and distinct from the general ticket voted at said election, which ballot shall be deposited in the special ballot box provided for in section 1 of this act, and no vote shall be counted for or against said removal or location which is not deposited in such special ballot box as herein provided. [G. S., §1286; L. '81, p. 104, §3.]

[Section 1 referred to is section 1171.]

**1174. Removal thirty days after canvass.**—No county seat shall be removed until the expiration of thirty days after the canvass of the votes had by the county canvassers upon the question of location or removal, nor until the board of county commissioners of such county shall have made and entered of record on their journal an order directing such removal, which order the said board shall make within thirty (30) days after the county canvass is completed, unless enjoined or restrained from so doing by an order of the district court of said county or the judge thereof, or by the supreme court. [G. S., §1287; L. '81, p. 104, §4.]

**1175. General election laws apply—Contests.**—All laws now in force relating to election shall apply to elections held upon the question of removal or location of county seats, except that the question of location of such county seat shall be contested in the district court of said county in the first instance, but may be removed to the district court of any other county under the provisions of the code relating to change of the place of trial, and shall be also subject to appeal or writ of error to the supreme court; *Provided*, That not less than two-thirds of all the legal votes cast shall be necessary to effect the removal of the county seat of any county in this state. [G. S., §1288; L. '81, p. 104, §5.]

**1176. Election laws applicable to contests.**—All laws governing contests of elections shall be held applicable to contests of county seat elections, except that the board of county commissioners of the county shall in all cases be the contestee, and that the contest shall be conducted in the district court of the proper county. Such district court or the judge thereof in vacation may appoint a referee to take testimony in relation to the grounds of contest alleged by the contestor, which referee may sit to take evidence in any precinct of his county. [G. S., §1289; L. '81, p. 104, §6.]

[For contest of elections see sections 2287-2319.]

## VI. REAPPOINTMENT.

### (a) CONGRESSIONAL.

**Section 1. Congressional districts.**—For the election of Representatives to Congress, the State of Colorado is hereby divided into four Congressional Districts as follows:

The City and County of Denver shall constitute the First District.

The Counties of Adams, Arapahoe, Boulder, Cheyenne, Clear Creek, Douglas, Elbert, Gilpin, Jefferson, Kit Carson, Larimer, Lincoln, Logan, Morgan, Phillips, Sedgwick, Washington, Weld and Yuma shall constitute the Second Congressional District.

The Counties of Alamosa, Baca, Bent, Conejos, Costilla, Crowley, Custer, El Paso, Fremont, Huerfano, Kiowa, Las Animas, Mineral, Otero, Prowers, Pueblo, Rio Grande, Saguache and Teller shall constitute the Third Congressional District.

The Counties of Archuleta, Chaffee, Delta, Dolores, Eagle, Garfield, Grand, Gunnison, Hinsdale, Jackson, Lake, La Plata, Mesa, Moffat, Montezuma, Montrose, Ouray, Park, Pitkin, Rio Blanco, Routt, San Juan, San Miguel and Summit shall constitute the Fourth Congressional District. [L. 1921, p. 170.]

### (b). LEGISLATIVE.

**Section 1. Members General Assembly.**—The General Assembly of the state of Colorado shall consist of one hundred members, and the Senate thereof shall consist of thirty-five members, and the House of Representatives of sixty-five members. Provided that no senatorial or representative district shall embrace the same territory within any other senatorial or representative district.

**Sec. 2. Senatorial districts.**—Until otherwise provided by law the state of Colorado shall be divided into senatorial districts, numbered and entitled to the number of senators as follows:

The City and County of Denver shall constitute the first senatorial district and be entitled to seven senators.

The County of Pueblo shall constitute the second senatorial district and be entitled to two senators.

The County of El Paso shall constitute the third senatorial district and be entitled to two senators.

The County of Las Animas shall constitute the fourth senatorial district and be entitled to one senator.

The County of Boulder shall constitute the fifth senatorial district and be entitled to one senator.

The Counties of Chaffee and Lake shall constitute the sixth senatorial district and be entitled to one senator.

The County of Weld shall constitute the seventh senatorial district and be entitled to one senator.

The County of Jefferson shall constitute the eighth senatorial district and be entitled to one senator.

The County of Fremont shall constitute the ninth senatorial district and be entitled to one senator.

The County of Larimer shall constitute the tenth senatorial district and be entitled to one senator.

The Counties of Gunnison and Delta shall constitute the eleventh senatorial district and be entitled to one senator.

The Counties of Logan, Sedgwick, Phillips, Washington and Yuma shall constitute the twelfth senatorial district and be entitled to one senator.

The Counties of Jackson, Routt, Rio Blanco and Moffat shall constitute the thirteenth senatorial district and be entitled to one senator.

The Counties of Costilla, Huerfano and Custer shall constitute the fourteenth senatorial district and be entitled to one senator.

The Counties of Rio Grande, Saguache and Mineral shall constitute the fifteenth senatorial district and be entitled to one senator.

The County of Mesa shall constitute the sixteenth senatorial district and be entitled to one senator.

The Counties of Dolores, Montrose and San Miguel shall constitute the seventeenth senatorial district and be entitled to one senator.

The Counties of Hinsdale, Ouray, San Juan and Archuleta shall constitute the eighteenth senatorial district and be entitled to one senator.

The Counties of La Plata and Montezuma shall constitute the nineteenth senatorial district and be entitled to one senator.

The Counties of Teller and Park shall constitute the twentieth senatorial district and be entitled to one senator.

The Counties of Eagle, Garfield and Pitkin shall constitute the twenty-first senatorial district and be entitled to one senator.

The Counties of Adams, Arapahoe and Morgan shall constitute the twenty-second senatorial district and be entitled to one senator.

The Counties of Crowley and Otero shall constitute the twenty-third senatorial district and be entitled to one senator.

The Counties of Conejos and Alamosa shall constitute the twenty-fourth senatorial district and be entitled to one senator.

The Counties of Baca, Bent, Kiowa and Prowers shall constitute the twenty-fifth senatorial district and be entitled to one senator.

The Counties of Clear Creek, Gilpin, Grand and Summit shall constitute the twenty-sixth senatorial district and be entitled to one senator.

The Counties of Kit Carson, Cheyenne, Douglas, Elbert and Lincoln shall constitute the twenty-seventh senatorial district and be entitled to one senator.

**Sec. 3. Elections of senators.**—Four senators shall be elected from the First Senatorial district, and one each from the Second, Third, Sixth, Tenth, Twelfth, Fourteenth, Fifteenth, Sixteenth, Seventeenth, Eighteenth, Twentieth, Twenty-fifth and Twenty-seventh districts at the general election held in November, 1918, and their successors every four years thereafter.

Three Senators shall be elected from the First Senatorial district and one each from the Second, Third, Fourth, Fifth, Seventh, Eighth, Ninth, Eleventh, Thirteenth, Nineteenth, Twenty-first, Twenty-second, Twenty-third, Twenty-fourth and Twenty-sixth districts at the general election held in November, 1920, and their successors every four years thereafter.

[L. 1917, p. 424, amending L. '13, p. 521.]

**Sec. 4. No removal for term elected.**—Nothing in this act shall be construed to work the removal of any senator from his office for the term for which he may have been elected, but all such senators shall serve the term for which they were elected; *Provided*, That in case of a

vacancy caused by the death, resignation or otherwise of any such senator, or senators, the vacancy shall be filled from the new district, as provided for in this Act, and in the event that any new county is created at any time after the passage of this Act, and the legislature has not provided for the attaching of said new county to a specifically mentioned district, then such new county shall be deemed to be in the senatorial and representative district that said territory was in prior to its creation.

**Sec. 5. Members of the House of Representatives.**—The members of the House of Representatives shall be divided among the several counties of the state as follows:

The City and County of Denver shall have twelve.  
The County of Pueblo shall have four.  
The County of El Paso shall have three.  
The County of Weld shall have two.  
The County of Larimer shall have one.  
The County of Boulder shall have two.  
The County of Mesa shall have one.  
The County of Las Animas shall have two.  
The Counties of Teller and Park shall have two.  
The County of Fremont shall have one.  
The Counties of Crowley and Otero shall have two.  
The County of Jefferson shall have one.  
The Counties of Arapahoe and Elbert shall have one.  
The Counties of Garfield and Rio Blanco shall have one.  
The County of Delta shall have one.  
The County of Montrose shall have one.  
The County of Conejos shall have one.  
The County of Alamosa shall have one.  
The County of Adams shall have one.  
The County of Pitkin shall have one.  
The County of La Plata shall have one.  
The County of Lake shall have one.  
The County of Rio Grande shall have one.  
The County of Chaffee shall have one.  
The Counties of Morgan and Washington shall have one.  
The County of Clear Creek shall have one.  
The County of Gilpin shall have one.  
The County of Ouray shall have one.  
The County of San Juan shall have one.  
The Counties of Logan and Sedgwick shall have one.  
The Counties of Phillips and Yuma shall have one.  
The County of Gunnison shall have one.  
The Counties of Saguache and Custer shall have one.  
The County of Douglas shall have one.  
The Counties of Lincoln, Kit Carson and Cheyenne shall have one.  
The Counties of Kiowa and Bent shall have one.  
The Counties of Prowers and Baca shall have one.  
The County of San Miguel shall have one.  
The Counties of Hinsdale, Archuleta and Mineral shall have one.  
The Counties of Routt and Moffat shall have one.  
The Counties of Summit, Grand and Jackson shall have one.  
The County of Eagle shall have one.  
The Counties of Huerfano and Costilla shall have one.  
The Counties of Montezuma and Dolores shall have one. [L. '13,

**VII. INITIATIVE AND REFERENDUM.**

**Section 1. To Prohibit state officers and employes circulating or soliciting signatures to any initiative or referendum petition, and providing penalties for the violation of this act.**—Any appointed officer or employe in any department, board, bureau, office or commission of this state, and any member of any board of control or other governing body of any State Institution, and any office or employe of any such State Institution, who shall prepare or cause to be prepared, or circulate or cause to be circulated, any initiative or referendum petition, or solicit or influence, or attempt to solicit or influence, any person to sign or not to sign any such petition, shall be guilty of a misdemeanor, punishable by a fine of not to exceed one hundred dollars; and a conviction hereunder shall operate as a permanent removal of the defendant from the office or employment held by such defendant. [L. '13, p. 309.]

**PAMPHLET PUBLICATION.**

**Section 1. Warning, petition, signing of.**—At the top of every initiative and referendum petition shall be printed in plain black letters the following:

**WARNING.**

It is a felony for anyone to sign an Initiative or referendum petition with any name other than his or her own, or to knowingly sign his name more than once for the same measure, or to sign such petition when not a qualified elector.

All initiative and referendum petitions shall be signed by qualified electors in their own proper person only, to which shall be attached the residence address of such person, including street and number, if any, and the date of signing the same. To each such petition shall be attached an affidavit of some qualified elector that each signature thereon is the signature of the person whose name it purports to be and that to the best of the knowledge and belief of the affiant each of the persons signing said petition was at the time of signing a qualified elector.

**Sec. 2. Petitions, form.**—Petitions shall be printed on pages eight and one-half inches wide by fourteen inches long, with a margin of two inches at the top for binding, and the sheets for signatures shall have their ruled lines numbered consecutively and shall be attached to a complete copy of what is proposed to be initiated or referred. Petitions may consist of any number of sections composed of sheets arranged as aforesaid. Each petition shall designate by name and address not less than three nor more than five persons who shall represent the signers thereof in all matters affecting the same. At the time of filing, the official with whom the petition is filed and a majority in number of the persons designated in the petition to represent the signers shall attach the sheets containing the signatures and affidavits together, which shall thereafter be bound in one or more convenient volumes and kept as public records, and any measure approved by the people of the state shall be printed with the acts of the next General Assembly, and such amendment, ordinance or measure approved by the people of any municipality shall be published as ordinances are.

**Sec. 3. Petition, held sufficient, may be amended.**—All petitions, so verified, shall be deemed and held sufficient if they appear to be signed by the requisite number of signers, and such signers shall be deemed and held to be qualified electors, unless a protest in writing under oath shall be filed in the office in which such petition has been filed, by some qualified elector, within fifteen days after such petition is filed, setting forth specifically the grounds of such protest and the names protested; whereupon the officer with whom such petition is filed shall forthwith mail a copy of such protest to the persons named in such petition as

representing the signers thereof, at the addresses therein given, together with a notice fixing a time for hearing such protest, not less than five or more than twenty days after such notice is mailed. All records and hearing shall be public. Hearings shall be summary and must be concluded within forty days after such petition is filed, and the result thereof shall be forthwith certified to the persons representing the signers of such petition. In case the petition be declared insufficient in form or number of signatures of qualified electors, it may be withdrawn by a majority in number of the persons representing the signers of such petition, and may, within fifteen days thereafter, be amended or additional names signed thereto as in the first instance, and refiled as an original petition. The finding as to the sufficiency of any petition may be reviewed by any state court of general jurisdiction in the county in which such petition is filed, but such review shall be had and determined forthwith, and, upon application, the decision of such court thereon shall be reviewed by the supreme court summarily.

1. The provisions of Section 3, c. 97, of the Laws of 1913, that a protest to a petition for the submission of an act of the legislature to the people must specify the grounds of such protest, and be under oath, are jurisdictional. The secretary of state is without power to act in the absence of a substantial compliance therewith. *Ramer vs. Wright*, 62 Colo., 53.

2. Appended to a protest against the submission of a legislative enactment to the People appeared the certificate of a notary public that certain persons therein named, each, "deposes and says: that he subscribed the above protest after reading the same \* \* \* and the contents thereof are true to the best of his knowledge, information and belief." There being no statement that the persons named were sworn, held that there was no compliance with the statute, and the secretary had no authority to entertain the protest. *Ramer vs. Wright*, 62 Colo., 53.

**Sec. 4. Measures, ballot title.\***—Measures shall appear upon the official ballot by ballot title only. Each petition shall designate such ballot-title, which must be brief and not conflict with that selected in any petition previously filed for the same election. Such ballot-title may be enjoined from appearing upon the ballot, if misleading or unreasonably long, in which event, or if a majority of the persons representing the signers of such petition shall determine said ballot-title to be misleading or unreasonably long, a majority of such persons representing signers shall select another ballot-title that shall fairly describe the measure submitted to vote. Such ballot-titles shall be numbered consecutively in the order in which they are filed and shall be printed on the official ballot in that order, together with their respective numbers prefixed in bold-faced type. Each ballot-title shall appear on the official ballot but once and shall be separated from the other ballot-titles next to it by heavy black rules and shall be followed by the words "yes" and "no" with blank spaces to the right and opposite the same, as follows:

(HERE SHALL APPEAR THE BALLOT-TITLE IN FULL)	YES
	NO

A voter desiring to vote for the measure shall mark a cross (X) in the blank space to the right and opposite the word "yes" a voter desiring to vote against the measure shall mark a cross (X) in the blank space to the right and opposite the word "no"; and the votes so marked shall be counted accordingly.

\*[See Ch. 131, S. L. 1919, page 431 hereof.]

**Sec. 5. Secretary of State, certificate of.**—The secretary of state, at the time he certifies to the county clerks of the several counties the names of the candidates for state and district offices for general election, shall also certify to them the ballot-titles and numbers of each initiated and referred measure theretofore filed in his office to be voted upon at such election.

**Sec. 6. Votes, how canvassed.**—The votes and all measures submitted to the people shall be counted and properly entered after the votes for candidates for office cast at the same election are counted, and shall be counted, canvassed and returned and the result determined and certified in the manner provided by law concerning other elections as near as may be. A majority of the votes cast thereon shall adopt any measure so submitted, and in case of adoption of conflicting provisions, that one which receives the greatest number of affirmative votes shall prevail in all particulars as to which there is a conflict.

**Sec. 7. Measure, how published.\***—Not later than thirty days, nor earlier than sixty days before any general or special election at which any measure, constitutional amendment, initiated or referred measure or part of a measure, is to be submitted to the people, the Secretary of State shall cause to be published once in full in two newspapers, of opposite political faith, if such there be, in each county in the state, compactly and without unnecessary spacing, a true copy of the title and the text of each constitutional amendment, initiated or referred measure or part of a measure to be submitted, with the number and form in which the ballot-title thereof will be printed in the official ballot, together with arguments for and against the same, as hereinafter provided. Any person, committee, or organization, interested for or against any constitutional amendment, initiated or referred measure or part of a measure may file with the Secretary of State not later than seventy (70) days before any special election or general election at which any said constitutional amendment, initiated or referred measure or part of a measure is to be submitted, arguments not exceeding fifteen hundred words in length either for or against any constitutional amendment, initiated or referred measure or part of a measure and showing by what person, committee or organization such argument was authorized; *Provided*, That said person, committee or organization shall deposit with the Secretary of State (as custodian for the said newspapers) sufficient moneys to pay for the publication of said arguments at the following rates, viz.: fifty cents (50c) per page per thousand copies to be circulated; *Provided, further*, That the Secretary of State shall accept no deposit unless the same shall be sufficient to pay for the printing of the argument in the whole number of copies to be circulated in all counties of the State. All arguments bearing on a particular measure shall immediately follow such measure as printed. All affirmative arguments shall precede the negative arguments. Said constitutional amendments, initiated and referred measures, or parts of measures, and all arguments thereon shall be published in a separate part of said newspaper which shall be devoted exclusively to said constitutional amendments, initiated and referred measures, or parts of measures, arguments and statements or advertisements of candidates, as provided in section eight, in the form of a pamphlet whose pages shall be six (6) by nine (9) inches, the type form being 4 1/6 inches by 7 inches and pages shall be numbered consecutively, and it is further provided that said constitutional amendments, initiated or referred measures, or parts of measures, and arguments shall be printed in eight (8) point or brevier type, set solid, and in paying for the publishing of said constitutional amendments, initiated and referred measures and parts of measures, the said eight point brevier type shall be reduced to a nonpareil or six point basis, and payment shall be made as if set in nonpareil type. *Provided*, That the Secretary of State shall issue no voucher to any publisher in any county in which said publications are made, until he shall be furnished with sufficient proof that a copy of said constitutional amendments, initiated and referred measures and parts of measures, and arguments was placed in the hands of every known registered elector, by such publishers making the publication in said county. *Provided, further*, That nothing herein shall be construed as requiring more than one copy to be furnished to the same name at the same street address; and *Provided, further*, That upon the furnishing of such proof, the Secretary of State shall thereupon issue vouchers for the payment of publishing said constitutional amendments,

initiated and referred measures and shall, out of moneys collected by him for such purposes, pay to each publisher publishing arguments as provided herein, a sum equal to fifty cents per page, per thousand copies, pro rata for any part of a thousand thereof actually placed in the hands of registered voters by such publishers as required herein.

Whenever the provisions of the Initiative and Referendum are applied to local and municipal affairs, the provisions of this section of this act shall apply; *Provided*, That the city or town clerk or other official designated by law to receive petitions shall perform the duties specified in this section to be done by the Secretary of State; and *Provided, further*, That said two publications provided for in this section shall be in two papers, if such there be, published within the municipality or local district wherein said Initiative or Referendum vote is to be taken.

\*[See Constitution, Article XXIII, page 24 hereof.]

**Sec. 8. State or congressional candidate, statement.**—Any state or congressional candidate to be voted on at any election at which measures are to be submitted may furnish the Secretary of State prior to the fifty-seventh day before such election a statement or advertisement of his candidacy of not exceeding fifteen hundred words, or not to exceed two printed pages. *Provided*, That the Secretary of State shall not be required to accept any such statement or advertisement unless such candidate shall deposit with him (as custodian for the said newspaper) sufficient moneys to pay for the publication thereof at the rate of fifty cents (50c) per page per thousand copies to be circulated within the district or districts wherein such candidate appears upon the official ballot; *Provided, further*, That no deposit shall be accepted unless it be sufficient to pay for the publication in all copies to be circulated in the district or districts wherein such candidate appears upon the official ballot.

**Sec. 9. Measure, time of going into effect.**—No ordinance, resolution or franchise passed by the legislative body of any city or town shall take effect before thirty days after its final passage and publication, except an ordinance calling a special election or necessary to the immediate preservation of the public peace, health or safety, and not then unless it shall state in a separate section the reasons why it is thus necessary and unless it shall receive the affirmative vote of three-fourths of all the members elected to each branch of such legislative body taken by ayes and noes. If within said thirty days a petition signed by qualified electors equal in number to at least fifteen per cent. of the last preceding vote for all the candidates for governor within such municipality shall be filed with the city or town clerk or other election officer protesting against such ordinance or any part thereof taking effect, such ordinance or part thereof so protested against shall thereupon and thereby be suspended from taking effect and such legislative body shall immediately reconsider the same, and if the same be not repealed it shall forthwith publish the same as other ordinances are published, if no publication has theretofore been made, and shall submit the same to a vote of the qualified electors at the next general municipal election not held within sixty days after said petition is filed, or at a special election to be called thereafter by such legislative body for that purpose, and such ordinance or part thereof shall not take effect unless a majority of the qualified electors voting thereon at such election shall vote in favor thereof. If such petition be signed by qualified electors equal in number to at least ten per cent, but less than fifteen per cent of the said last preceding vote for all candidates for governor, the legislative body shall submit such ordinance or part thereof to a vote of the qualified electors at the next ensuing general municipal election not held within sixty days after such petition is filed.

**Sec. 10. Ordinance or amendment submitted by petition of 5 per cent. vote.**—Any proposed ordinance, charter or charter amendment may be submitted to the legislative body of any city or town by petition therefor of qualified electors equal in number to at least five per cent of the

last preceding vote for all candidates for governor within such municipality by filing the same with the city or town clerk or other election officer, and such proposed ordinance, charter or charter amendment shall be adopted, without alteration, by such legislative body within twenty-days after such petition is filed, and if vetoed by the mayor, shall be passed over his veto within ten days after such veto, or the legislative body shall refer such proposed ordinance, charter or charter amendment, in the form petitioned for, to the qualified electors at the next municipal election held not less than sixty days after such petition is filed. If such petition contain a request for a special election and is signed by qualified electors equal in number to at least fifteen per cent. of the said last preceding for governor, the ordinance, charter or charter amendment thereby proposed shall be passed by the legislative body, without amendment or change, within twenty days after such petition shall be filed, and, if vetoed by the mayor, shall be passed over his veto within ten days after such veto, or such legislative body shall refer such proposed ordinance, charter or charter amendment, in the form petitioned for, to the qualified electors at a special election which shall be called within said thirty days and held not less than sixty nor more than ninety days after such petition is filed, unless a special election for some other purpose or a general election is held within said period of time, in which case such proposed ordinance, charter or charter amendment shall be submitted to a vote at such election. The legislative body shall cause such proposed ordinance, charter or charter amendment, as well as those referred to a vote under the preceding section, to be printed in pamphlet form and circulated as herein provided. Alternative ordinances, charter or charter amendments may be submitted at the same election and if two or more conflicting measures be approved by the people, then that one which receives the greatest number of affirmative votes shall be adopted in all particulars as to which there is a conflict.

**Sec. 11. Vote upon which petition is based.**—Provided, that in all municipalities where the voting precinct or precincts therein are not wholly within the corporate limits of such municipality, the vote upon which any petition is based, shall be the total vote cast in such municipality at the last preceding election for all candidates for mayor, if there be such office, and if not, then on the total first-choice votes cast in any such municipality for the candidate for commissioner receiving the highest number of votes, added to the total first-choice votes, cast for all of his competitors for the same position.

**Sec. 12. Local option.**—This act shall not apply to the provisions of the local option liquor laws providing methods of determining whether the sale of intoxicating liquors shall be prohibited in any county, city, district, ward or precinct.

**Sec. 13. Petition, qualifications to sign.**—Every person who is a qualified elector may sign a petition. Any person who shall wilfully and knowingly circulate or cause to be circulated, or sign or procure to be signed, any petition bearing the name, device or motto of any person, organization, association, league or political party or purporting in anywise to be endorsed, approved or submitted by any person, organization, association, league or political party, without the consent, approval and authorization of such person, organization, association, league or political party, or any person signing any name other than his or her own to any petition or knowingly signing his or her name more than once for the same measure at one election, or who is not at the time of signing the same a qualified elector, or any officer or person who shall wilfully do, or with another or others conspire, or agree or confederate to do, any act or acts which shall hinder, delay or in any wise interfere with the calling, holding or conducting of any election permitted under the initiative and referendum powers reserved by the people in Section 1 of Article V of the Constitution of the state of Colorado or of registering electors therefor or any officer who shall wilfully do any act or acts which shall confuse or tend to confuse the issues submitted or proposed

to be submitted at any election, or shall refuse to submit any petition in the form presented for submission at any election, or any officer or person wilfully violating any provision or provisions of this act shall, upon conviction thereof, be punished by a fine not exceeding five hundred dollars or by imprisonment in the penitentiary not exceeding two years, or by both such fine and imprisonment.

Sec. 14. Sec. 2, Art. XIX amended before this applies.—The provisions of this act requiring publication of measures in pamphlet form shall not be in force as to such measures submitted to the electors of the state at large unless and until the method of publishing such measures not provided in Section 2 of Article XIX of the Constitution of the state of Colorado shall have been changed to permit such publication to be made as provided by law.

[L. '13, pp. 310 to 318. Constitution not amended to permit publication in pamphlet form.]

#### **SUBMISSION CLAUSES—TITLES.**

Section 1. That on and after the passage of this act, the original draft of all initiative petitions for proposed laws to be enacted by the people shall, before they are signed by the electors or any of them, be submitted with a copy thereof to the Secretary of State without any title thereto, submission clause or ballot title, providing the designation for or against which the voters shall express their choice for or against said proposed law; that within three days after such submission, the Secretary of State shall call to his assistance the Attorney General and the Reporter of the Supreme Court, the three of which, a majority controlling, shall, within five days thereafter, designate and fix a proper and fair title for said proposed law; also its ballot title and submission clause, which shall correctly and fairly express the true intent and meaning of the act, and immediately thereafter deliver the same with the original to the parties presenting it, keeping the copy with a record of their actions thereon. If any person or persons presenting such initiative petition are not satisfied with the titles and submission clause thus provided and claim them to be unfair or that they do not fairly express the true meaning and intent of the proposed act, they may, within forty-eight hours after its return, file a motion with the Secretary of State for a rehearing, which shall be passed upon within forty-eight hours thereafter, and if overruled, upon request a certified copy of said petition with the titles and submission clause thus provided, the motion for a rehearing and a record of the ruling thereon shall be furnished them by the Secretary of State and if filed with the Clerk of the Supreme Court within five days thereafter, shall be docketed as a cause there pending, which shall be placed at the head of the calendar and disposed of summarily, either affirming the action of said board or reversing it, in which case the court shall remand it with instructions, pointing out wherein said board is in error. [L. 1919, p. 431.]

Section 1. Within laws 1919 page 431, Sections 1, 3, requiring that, before an initiative petition is signed by electors, it shall be submitted to the secretary of state, who, with others, shall designate and fix a title for the proposed law also a ballot title and submission clause, a ballot title, with the words "Yes" and "No," and the blank space opposite them, constitute, a "submission clause;" to "submit" meaning to present and leave to the judgment of the qualified voters. *Noland vs. Hayward* (Colo.), 192 Pac., 657.

Sec. 2. The Secretary of State shall be allowed the same fees for certifying said record as now provided by law for certified copies of other papers. The Clerk of the Supreme Court shall receive one-half the ordinary docket fee for docketing said cause. All of which shall be paid by the parties desiring said review. [L. 1919, p. 432.]

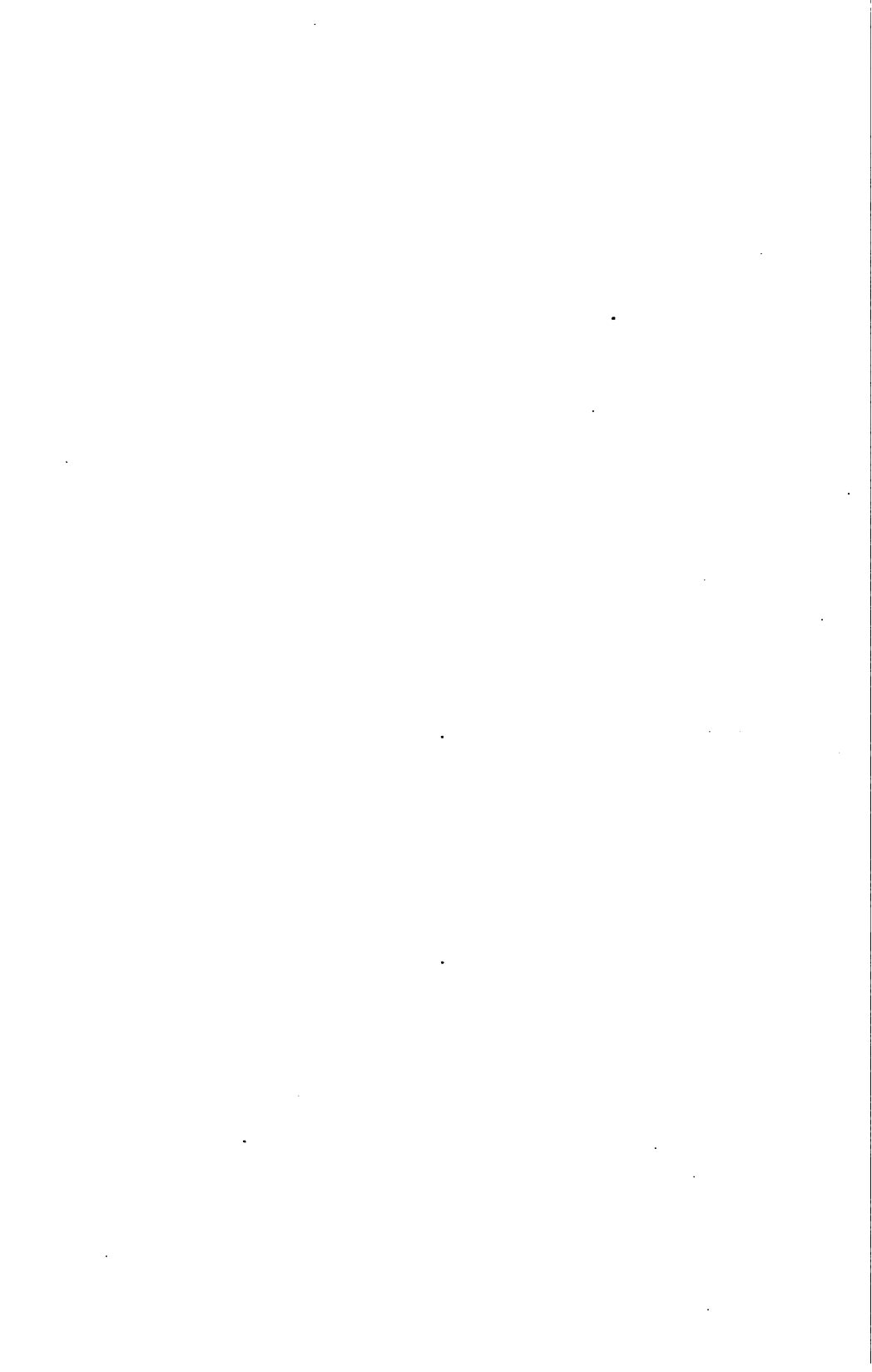
See note 1 under Section 1.

Sec. 3. No petition for any initiative measures shall be circulated nor any signatures thereto have any force or effect which has been signed before the title and submission clauses have been added in the manner herein provided. No petition for any initiative measure shall be of any force or effect unless filed with the Secretary of State (as provided for by the constitution) within six months from the date that the titles and submission clauses have been provided therefor pursuant to the provisions of section 1 of this act. [L. 1919, p. 432.]

1. See note under Section 1.

**FORMS**  
**FOR**  
**Primary and General**  
**Elections**

**(All petitions or forms under Primary Election Law must be uniform in size and color, 17x11 inches, white paper, printed or written in black ink. Affidavit must be on same sheet as the petition.)**



FORM P. E. NO. 1

## PETITION FOR PRIMARY NOMINATION

X—BIND HERE—X

## PRIMARY NOMINATION PETITION OF

Party \_\_\_\_\_ for \_\_\_\_\_ Office \_\_\_\_\_  
 (For Numbers of Signers, Time and Place of Filing, see Sections 5 and 6,  
 Pages 30 and 31, Election Laws 1918.)

To \_\_\_\_\_  
 (Secretary of State of State of Colorado) or (To City or County Clerk for  
 City or County of \_\_\_\_\_, Colorado), as the case may be.

We, the undersigned members of and affiliated with the \_\_\_\_\_

Party and qualified Primary Electors of said \_\_\_\_\_ Party  
 in the \_\_\_\_\_ of \_\_\_\_\_ in the County of \_\_\_\_\_  
 and State of Colorado, do hereby petition that \_\_\_\_\_

(Name of person who is Candidate.)  
 who resides at No \_\_\_\_\_ Street, in the City of \_\_\_\_\_

in the County of \_\_\_\_\_ and State of Colorado (if in Country,  
 give postoffice address) and whose place of business is \_\_\_\_\_

shall be a candidate of the \_\_\_\_\_ Party, for the  
 nomination for the office of \_\_\_\_\_  
 to be voted for at the Primary Election to be held on the \_\_\_\_\_  
 day of \_\_\_\_\_, A. D. 19 \_\_\_\_\_

NAME	Post Office Address	Street and Number, if any	Election Pre- cinct Wherein Resident as Such Elector
1 .....			
2 .....			
3 .....			
4 .....			
5 .....			
6 .....			
7 .....			
8 .....			

State of Colorado, }  
 \_\_\_\_\_ County of \_\_\_\_\_ } ss.

Each of the persons, whose signatures appear on the foregoing sheet, did  
 personally appear before me and sign the foregoing petition in person, and  
 being duly sworn upon oath, each for himself or herself (and not for the  
 other), says that the above and foregoing statement is true; that the said  
 person \_\_\_\_\_ candidate for the office of \_\_\_\_\_  
 is placed in nomination on behalf of the \_\_\_\_\_ Party  
 and is affiliated with the principles thereof; that affiants intend to vote for  
 said \_\_\_\_\_ for the office of \_\_\_\_\_  
 at the ensuing direct Primary Election and that affiants have not signed any  
 other petition for any other candidate for the office of \_\_\_\_\_

NAME

NAME

1 .....

5 .....

2 .....

6 .....

3 .....

7 .....

4 .....

8 .....

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_,

A. D. 19 \_\_\_\_\_

Notary Public.

(SEAL)

FORM P. E. NO. 2

## ACCEPTANCE OF CANDIDATE FOR NOMINATION

BY

## PRIMARY NOMINATING PETITION.

(To be endorsed on or appended to Petition on first or last sheet of Petition, as per Section 5, Page 30, Election Laws 1918.)

To .....  
(Secretary of State, or other officer with whom Petition is to be filed.)

and to the members of the ..... Party and the Electors of

.....  
(State) (Counties of ..... comprising the ..... District)  
(County) (City) as the case may be.STATE OF COLORADO, }  
.....County of..... } ss.

....., being first duly sworn upon oath deposes and says, that I am a resident of ..... County and of the City (or) Town of .....; that my Street address is No. .... Street, in said City or Town of ..... (or if living in the country) that my postoffice address is ..... and that my place of business is ..... Street, City of .....; that I am a qualified elector of ..... Precinct, in said County (or City) of ....., State of Colorado; that I am a member of and affiliated with the ..... Party; that I hereby accept the aforesaid Petitioners' designation of a place on the Primary Election Ballot for the office of .....; that if I am nominated for the office of ..... at the Primary Nominating Election to be held in the (County or City of .....), State of Colorado, on the ..... day of ....., 19....., I will accept the nomination (and will not withdraw) and if I am elected, I will qualify as such officer.

.....  
(Signature of Candidate.)

Subscribed and sworn to before me, this ..... day of .....  
....., A. D. 19.....

.....  
Notary Public.

My Commission Expires.....  
(SEAL)

FORM P. E. NO. 3

**STATE OF COLORADO**  
**CERTIFICATE OF DESIGNATION BY ASSEMBLY.**

(See Section 4, Page 29, Election Laws 1918.)

To the Hon. ....  
 (Secretary of State, of Colorado) or (to City or County Clerk  
 of the City and County of —)

This is to certify that an Assembly of delegates or voters represent-  
 ing the .....Party

of the .....  
 (State) (District) or (County)

of Colorado, a Party which, at the last general election for State officers,  
 cast more than ten per cent. of the total vote cast at said general elec-  
 tion for its candidate for Governor, was held under the call of the Chair-  
 man of the said.....Party at the.....

in the City of....., State of Colorado, on the.....  
 day of....., A. D. 19..... At said Assembly.....

.....whose residence is  
 (Name of party selected as Chairman or presiding officer  
 of Assembly)

....., Colorado, was elected as Chairman and  
 presiding officer; and.....

whose residence is....., Colorado, was elected Sec-  
 retary of said Assembly.

That said Assembly was composed of.....delegates.  
 (Number) (Voters)

That at said Assembly one ballot was taken upon candidates for  
 each of the following offices to be filled at the ensuing election and with-  
 in the jurisdiction of such Assembly, and that each of the following  
 named persons received the number of votes set opposite their names  
 for the office indicated opposite their names; said votes being ten per  
 cent. or more of the votes of the duly accredited delegates to such As-  
 sembly, for the officers to be voted upon at the ensuing Primary Elec-  
 tion, to be held ....., September....., 19.....

For Office of:—

Name of Candidates receiving ten per cent.  
 or more of vote of Assembly in order of vote  
 received.

.....Vote Received.  
 1.  
 2.  
 3.

For Office of:—

That the following named persons, or.....  
 Committee, shall constitute a vacancy committee in and for the.....  
 .....Party, of the .....  
 (State) (District) or (County)  
 and be empowered to fill any vacancy that may occur in the designation  
 made by the Assembly, viz.:.....  
 .....  
 .....

.....  
 Chairman and Presiding Officer of the  
 .....Assembly.

Residence..... P. O. Address.....

.....

Secretary of the .....

..... Assembly.

Residence .....

P. O. Address .....

STATE OF COLORADO, {  
 .....COUNTY OF..... } ss.

Personally appeared before me, a Notary Public, in and for the said  
 County of....., State of Colorado,.....

.....  
 (Name of Chairman or Presiding Officer of Assembly)  
 and .....

(Name of Secretary of Assembly)  
 who being first duly sworn each for himself and not one for the other,  
 upon oath deposes and says; that the said..... was the  
 Chairman and Presiding Officer of the.....Assembly,  
 held in the City of ....., County, State  
 of Colorado, on .....  
 (Date of holding Assembly)

A. D. 19....; and the said.....  
 was the Secretary thereof; that the above Certificate of Designation  
 and the statements contained therein are true to the best of their knowl-  
 edge and belief.

.....  
 .....  
 Subscribed and sworn to before me this.....day of

....., A. D. 19....

My Commission Expires.....

(SEAL)

.....  
 Notary Public.

FORM P. E. NO. 4

**DECLARATION OF ACCEPTANCE OF DESIGNATION  
BY ASSEMBLY.**

(See Section 4, Page 29, Election Laws 1918.)

To the Hon.: .....  
(Secretary of State) (County or City Clerk) or (other Officer  
with whom Certificate of Designation by Assembly is filed).

.....Colorado,

This is to certify that I, .....  
do hereby accept the Designation of the.....  
Assembly, held at.....on.....day of  
....., 19...., as evidenced by the Certificate  
of Designation of said Assembly, duly filed in the office of.....

.....  
(Secretary of State) (County or City Clerk)  
on the.....day of....., 19...., in accord-  
ance with the provisions of the Primary Election Law of 1910—Elec-  
tion Laws 1918, Page 31—as a candidate for the office of.....

.....  
to be voted upon at the ensuing Primary Election to be held on the  
.....day of September, A. D. 19....

.....  
Signature of Candidate.  
P. O. Address .....  
Residence No. ....St.  
City or Town .....  
County of .....

STATE OF COLORADO, }  
.....COUNTY OF..... } ss.

Before me, ....., a Notary Public  
within and for said County and State, personally appeared.....  
....., who, being duly sworn says, that the fore-  
going Acceptance of Designation by Assembly is true and that he has  
subscribed his signature to the same and acknowledges the same as his  
free and voluntary act for the uses and purposes therein set forth.

.....  
(SEAL) Notary Public.

FORM P. EL NO. 5

X—BIND HERE—X

**STATE OF COLORADO  
INDEPENDENT NOMINATION CERTIFICATE.**

(For number of signers, where and when filed and committee on vacancies, see Section 26, Primary Election Law, Pages 39 and 40, Election Laws, 1913.)

To the Hon. ....  
(Secretary of State of Colorado) or (City or County Clerk of  
City or County of.....)

We, the undersigned qualified electors and legal voters of the State  
of Colorado, residing within the.....  
(State, District, County,

.....  
City or other political division, in or for which the officer or officers are to be  
elected)

representing .....  
(the political or other name which the signers shall select in  
not more than five words)

in accordance with the provisions of Section 26 of the Primary Election  
Laws of 1910:—An Act concerning Nominations of Candidates for pub-  
lic offices, and for political party positions, etc., Approved Oct. 17, 1910—  
hereby make the following nominations for offices to be filled at the next  
ensuing.....Election, to be held on the.....  
day of....., A. D. 19...., we do hereby designate and  
appoint the following named persons as a Committee for the above  
.....to fill any and all vacancies  
(Name signers adopted)

which may occur in said nominations, caused by death, resignation or  
otherwise:—

Names of Committee.	Addresses.
1. ....	.....
2. ....	.....
3. ....	.....
4. ....	.....
5. ....	.....

## NAMES OF CANDIDATES AND OFFICES TO BE FILLED.

Office to Be Filled	Name of Candidate	P. O. Address	Place of Residence (If in a City) (St. and No.)	Place of Business (If in a City) (St. and No.)

## SIGNATURE OF PETITIONERS.

NAME	Post Office Address	Street and Number, If Any	Election Precinct Wherein Resident as Such Elector
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			

## AFFIDAVIT.

STATE OF COLORADO, }  
 .....COUNTY OF..... } ss.

Before me, ....., a Notary Public, within and for said County and State, personally appeared each and every one of the persons whose names are signed to the foregoing Certificate, and being first duly and severally sworn each for himself or herself, deposes and says that he or she is a legal voter in the.....

.....and that he or she (Name of Political Division for which Nominations are made)

signed the said Certificate and has correctly stated his or her place of residence by adding the same to his or her said signature, and that he or she has not voted at any Primary Election to nominate a candidate for such office or any of such officers.

Name.	Name.
1. ....	6. ....
2. ....	7. ....
3. ....	8. ....
4. ....	9. ....
5. ....	10. ....

Subscribed and sworn to before me this.....day of

....., A. D. 19.....

(SEAL)

.....,

Notary Public.

FORM P. E. NO. 6

WRITTEN ACCEPTANCE OF NOMINATION

BY

INDEPENDENT NOMINATION CERTIFICATE.

(To be filed with same officer as Certificate and Nomination, filed within eight days after filing of such Certificate. Section 26, Primary Election Laws 1910; Election Laws 1918, Pages 39 and 40)

To the Hon. ....  
(Secretary of State, County Clerk or other officer with whom Independent Nomination Certificate filed)

This is to Certify, that I, .....  
do hereby accept the nomination for the office of.....  
tendered me by the..... That my  
place of residence is No.....St., in the City of.....,  
County of....., State of Colorado, and that my place  
of business is located at No.....St., City of.....,  
County of....., and that my Postoffice address is  
....., County of....., State of Colorado.

.....,  
Name of Candidate.

STATE OF COLORADO, }  
.....COUNTY OF..... } ss.

Before me, ....., a Notary Public in  
and for said County and State, personally appeared.....  
....., whose name is subscribed to the foregoing  
Acceptance of Nomination for office, and who being first duly sworn upon  
oath says, that the foregoing statements are true and that.....  
acknowledges the execution of said instrument to be his free act and  
voluntary deed, for the uses and purposes therein set forth.

In Witness whereof, I have hereunto set my hand and affixed my  
Notarial Seal, this.....day of....., 19....

(Notary Seal)

.....,  
Notary Public.

My Commission Expires.....

FORM P. E. NO. 7

**"OFFICIAL DIRECT PRIMARY ELECTION BALLOT"**

.....PARTY.

.....Precinct .....Ward .....City .....  
County.

To vote for a person, mark a cross (X) in the first square at the right of the name of the person for whom you desire to vote. (To vote for other person whose name is not printed on ballot, write name of such person in the blank space immediately following the printed names of candidates for such office. In no case shall name be written of candidate appearing on any other party ballot). (Assembly candidates go first on ballot in order of the vote received by them in Assembly. Petition candidates to follow in alphabetical order.)

United States Senator	Vote for one	Representative in ..... Congress ..... District	Vote for one
One Judge of Supreme Court	Vote for one	Governor	Vote for one
Lieutenant Governor	Vote for one	Secretary of State	Vote for one
Auditor of State	Vote for one	State Treasurer	Vote for one
Attorney General	Vote for one	Superintendent of Public Instruction	Vote for one
Two Regents of University of Colorado	Vote for one	State Senator for..... Senatorial District	Vote for one
Representative to General Assembly ..... District	Vote for one	..... District Judge in the..... Judicial District	Vote for one
District Attorney in the..... ..... Judicial Court	Vote for one	County Clerk and Recorder	Vote for one
Sheriff	Vote for one	County Superintendent of Schools	Vote for one
Justice of Peace..... Precinct	Vote for one	Constable ..... Precinct	Vote for one
Precinct Committeeman..... ..... Precinct	Vote for one	Precinct Committeewoman.. ..... Precinct	Vote for one

NOTE: Each political party must have separate party ticket.

FORM P. E. NO. 8

**PRIMARY ELECTION NOTICE FOR COUNTY OR CITY AND COUNTY.**

(Section 7, Primary Election Law, 1910, Page 31, Election Laws 1918.)

To the Electors of.....County:

In accordance with the Provisions of Section 7, Primary Election Law 1910, page 31, Election Laws 1918, Notice is hereby given, that a Direct Primary Election will be held in the lawful polling places in each of the voting precincts of the County and of the several Wards of the City, between the hours of 7 A. M. and 7 P. M., on the..... day of September, A. D. 19...., at which Election the following named persons, for whom nomination papers have been filed, affecting the electors of said County, together with their addresses, the offices to be filled and the political party each represents, are to be voted for at said Primary Election:

**LIST OF CANDIDATES AND OFFICES TO BE FILLED.**  
**UNITED STATES OFFICES.**

**UNITED STATES SENATORS AND REPRESENTATIVES IN CONGRESS.**

Name.	Address.	Office to be Filled.	Party.
.....	.....	.....	.....
.....	.....	.....	.....

**STATE OFFICES.**

Name.	Address.	Office to be Filled.	Party.
.....	.....	.....	.....
.....	.....	.....	.....

**LEGISLATIVE OFFICES.**

Name.	Address.	Office to be Filled.	Party.
.....	.....	.....	.....
.....	.....	.....	.....

**DISTRICT OFFICES—GREATER THAN COUNTY.**

Name.	Address.	Office to be Filled.	Party.
.....	.....	.....	.....
.....	.....	.....	.....

**COUNTY OFFICES.**

Name.	Address.	Office to be Filled.	Party.
.....	.....	.....	.....
.....	.....	.....	.....

**PRECINCT OFFICES.**

Name.	Address.	Office to be Filled.	Party.
.....	.....	.....	.....
.....	.....	.....	.....

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of the County of....., this..... day of....., A. D. 19....

.....  
 County Clerk and Recorder of.....County.

(SEAL)

FORM P. E. NO. 9

**FORM OF TALLY SHEETS FOR DIRECT PRIMARY ELECTION.**

(See Section 10, Page 34, Election Laws 1918.)

Tally sheet for.....Party,  
 (Name of political party)  
 ..... (County)  
 (Name of City) (County)  
 (Ward) ....., (Precinct).....  
 (Ward No.) (Election Precinct)  
 for a Direct Primary Election held on the.....  
 (Date of Primary Election)  
 .....day of....., A. D. 19....  
 (Month)  
 (Names of Candidates to appear on tally sheets in order in which they appear  
 on the official ballots, and have proper party  
 designation at the head thereof.)

**CANDIDATES AND ORDER ON BALLOT.**

United States Senator.  
 Representative in.....Congress.....District.  
 One Judge of Supreme Court.  
 Governor.  
 Lieutenant Governor.  
 Secretary of State.  
 Auditor of State.  
 State Treasurer.  
 Attorney General.  
 Superintendent of Public Instruction.  
 Two Regents of University of Colorado.  
 State Senator for.....Senatorial District.  
 Representative to General Assembly, ..... District.  
 ..... District Judge in the ..... Judicial District.  
 District Attorney in the.....Judicial District.  
 County Clerk and Recorder.  
 Sheriff.  
 County Superintendent of Schools.  
 Justice of Peace.....Precinct.  
 Constable.....Precinct.  
 Precinct Committeeman.....Precinct.  
 Precinct Committeewoman.....

Certified by us this.....day of September, 19....

Attest:

.....  
 .....  
 .....

Clerks of Primary Election

Judges of Primary Election.

NOTE: Two sets of tally sheets for each political party having candidates to be voted upon at Primary Election to be furnished each election precinct.

FORM P. E. NO. 10

**ABSTRACT OF VOTES FROM ELECTION PRECINCTS.**

To the Hon. ...., County Clerk and Recorder  
of.....County:

At a Primary Election held at the house of.....  
.....No. ....Street, in.....Precinct or Ward,  
in the County of.....and State of Colorado, on the  
.....day of....., in the year of our Lord  
one thousand nine hundred and....., in accordance with the pro-  
visions of the Direct Primary Law 1910, Section 18, Page 36, Election  
Laws 1918, the following named persons received the number of votes  
annexed to their respective names for the nomination for the following  
described offices, to-wit:

Whole Number of Votes Cast were.....  
(words) (Fig.)

.....had.....(....) Votes for  
United States Senator

.....had.....(....) Votes for  
Rept. in.....Congress.....District.

.....had.....(....) Votes for  
Judge of Supreme Court.

.....had.....(....) Votes for  
Governor.

.....had.....(....) Votes for  
Lieutenant Governor.

.....had.....(....) Votes for  
Secretary of State.

.....had.....(....) Votes for  
Auditor of State.

.....had.....(....) Votes for  
State Treasurer.

.....had.....(....) Votes for  
Attorney General.

.....had.....(....) Votes for  
Superintendent of Public Instruction.

.....had.....(....) Votes for  
Regent of University of Colorado.

.....had.....(....) Votes for  
State Senator for.....Senatorial Dist.

.....had.....(....) Votes for  
Rept. to General Assembly.....Dist.

.....had.....(....) Votes for  
.....District Judge in.....Dist.

.....had.....(....) Votes for  
 District Atty. in.....Judicial Dist.

.....had.....(....) Votes for  
 County Clerk and Recorder.

.....had.....(....) Votes for  
 Sheriff.

.....had.....(....) Votes for  
 County Supt. of Schools.

.....had.....(....) Votes for  
 Justice of Peace.....Precinct.

.....had.....(....) Votes for  
 Constable.....Precinct.

.....had.....(....) Votes for  
 Precinct Committeeman.....Precinct.

.....had.....(....) Votes for  
 Precinct Committeewoman.....Precinct.

and in the same manner for any other person voted for.

Certified by us this.....day of September, 19....

Attest:

.....

.....

.....

Clerks of Primary Election.

Judges of Primary Election.

FORM P. E. NO. 11

## CERTIFICATE OF DESIGNATION TO FILL VACANCY.

To the Hon. ....  
 (Secretary of State) or (County Clerk and Recorder of .....  
 County) or (City Clerk)

Secretary of State of the State of Colorado, or County or City Clerk,  
 as the case may be:

In accordance with the provisions of Section 24 of the Primary  
 Election Law 1910, page 38, Election Laws 1918, We, the Undersigned,  
 Chairman and Secretary respectively of the .....  
 (Name of political party filling vacancy)  
 (State, County or City)

Committee, do hereby certify.

That, whereas, a vacancy has occurred on the .....  
 (Name of political party)  
 ..... Ticket in and for the office  
 (State, County or City)  
 of ..... caused by .....  
 (Office vacated) (Insert cause of vacancy)  
 the said ....., being the regular nominee  
 of said Party at the Direct Primary Election held on the .....  
 day of ....., A. D. 19...., for such office.

That on ....., the ..... day of .....,  
 (Day of week)  
 19...., at a regularly called meeting of the said .....  
 (Political party)  
 ..... Committee, called for the purpose of  
 (State, County or City)  
 filling vacancies on the .....  
 (Political party) (State, County or City)  
 Ticket, and representing the ..... Party  
 (Political party)  
 of the State of Colorado (County or City of ..... ) did  
 meet in pursuance to said Call and Notice of said Meeting for the pur-  
 pose of filling vacancies on said .....  
 (Political party) (State, County or City)  
 Ticket as aforesaid; and that at such meeting, a vote being regularly  
 taken and had, the following persons, viz.:

.....	.....
(Name of person)	(Address)

was by said ..... Committee, unan-  
 (Party) (State, County or City)  
 imously nominated and chosen by said .....  
 (Party) (State, County or City)  
 Committee as the Candidate of said ..... Party  
 (Political party)

as the nominee for said office.....  
of the State of Colorado (or County or City of.....) and  
the name of the said.....  
is hereby substituted on said.....  
(Political party) (State, County or City)  
Ticket, for said office in the place and stead of the said.....  
on said .....  
(Political Party) (State, County or City)  
Ticket.

In Witness Whereof, we have hereunto set our hands and seals this  
.....day of ....., A. D. 19....

Chairman of the.....Party.....Committee.  
(State, County or City)

Secretary of the.....Party.....Committee.  
(State, County or City)

STATE OF COLORADO, }  
.....COUNTY OF..... } ss.

Before me, ....., a Notary Public  
within and for the County and State aforesaid, personally appeared  
..... and .....  
who, being duly sworn each for himself and not one for the other, did  
depose and say: That they are respectively the duly elected, qualified  
and Acting Chairman and Secretary of the.....  
.....  
(Political party)

..... Committee;  
(State, County or City)  
that they have read the above and foregoing Certificate and know the  
contents thereof, and that the said Certificate and the statements therein  
contained are true to the best of their knowledge and belief.

Subscribed and sworn to as above, before me this.....  
day of ....., A. D. 19....

My Commission Expires.....

.....  
Notary Public (or other officer).

(SEAL)

FORM P. E. NO. 12.

(Separate Certificate to be made for each political party)

**ABSTRACT OF VOTES AND CERTIFICATE OF DETERMINATION OF  
THE COUNTY BOARD OF CANVASSERS OF THE.....  
COUNTY.**

In accordance with the provisions of Section 2272 Revised Statutes  
of Colorado 1908 page 111, Election Laws 1918, and Section 24 Primary  
Election Laws 1910, Page 38, Election Laws 1918, We, the Undersigned,  
....., County Clerk and Recorder of.....  
County, and ....., Justice of the Peace, and  
(Republican)

....., Justice of the Peace.....  
(Democratic)

County, constituting the County Board of Canvassers for.....  
County, met at the Court House in....., County of.....,  
State of Colorado, on the.....day of September, A. D. 19...., it  
being the 10th day after the close of the Direct Primary Election held  
on the ..... day of September, 19...., all the returns of the  
Primary Election held in.....County, State of Colorado, being  
in, and opened the returns of said election and proceeded to canvass the  
votes cast at said Primary Election for the nomination of the following  
offices, viz.:

List of Offices Voted For in.....County  
and Candidates for each office, together with number of Votes received  
at said Primary Election, by each person, for each of said offices:

United States Senators.

Representative in.....Congress.....District.

One Judge of Supreme Court.

Governor.

Lieutenant Governor.

Secretary of State.

Auditor of State.

State Treasurer.

Attorney General.

Superintendent of Public Instruction.

Two Regents of University of Colorado.

State Senator for.....Senatorial District.

Representative to General Assembly.....District.

.....District Judge in the.....Judicial District.

District Attorney in the.....Judicial District.

County Clerk and Recorder.

Sheriff.

County Superintendent of Schools.  
 Justice of Peace.....Precinct.  
 Constable.....Precinct.  
 Precinct Committeeman.....Precinct.  
 Precinct Committeewoman.....

That we have carefully examined all the returns of the votes from the duly qualified Election officials of the lawful polling precincts of .....County as cast therein for each of the foregoing offices and that the tabulated statements or abstract of votes consisting of separate sheets for the foregoing offices are true and correct abstract of votes cast at said Primary Election for said offices and the persons for whom the same were cast; and we do further certify and determine hereby:

That.....,having received the highest number of votes cast for any one person, said number being..... votes, for the nomination for the office of County Clerk and Recorder of.....County, on the..... Party Ticket, is hereby declared duly nominated for said office by the .....Party.  
 (The same determination and certificate to follow for each of the County and Precinct offices.)

Total Number of Votes Registered in.....  
 County for Primary Election of.....  
 A. D. 19...., were.....

Total Number of Ballots cast at said Primary Election of.....  
 .....day....., A. D. 19...., were.....

IN TESTIMONY WHEREOF, We, the Members of said Board, have hereunto set our hands at the Court House of.....County, in....., State of Colorado, this.....  
 (City or Town)  
 day of....., A. D. 19....

.....  
 County Clerk and Recorder of  
 .....County.

.....  
 Republican Justice of the Peace of  
 .....County.

.....  
 Democratic Justice of the Peace of  
 .....County.  
 Board of County Canvassers.

FORM P. E. NO. 18.

**NOTICE OF NOMINATION.**  
(See Section 26, Page 39, Election Laws 1918.)

STATE OF COLORADO, }  
COUNTY or (CITY) OF..... } ss.

OFFICE OF COUNTY OR CITY CLERK  
OF.....COUNTY or.....CITY.

I, ....., County Clerk of.....County,  
or City Clerk of....., State of Colorado, do hereby  
certify that at a meeting held at the County Clerk's office or (City Clerk's  
office) at the..... on the.....  
(Court House or City Hall of City)  
day of.....September, A. D. 19.....  
(Name of County or City Clerk)  
County Clerk of.....County or (City Clerk of.....)  
and.....Justice of the Peace and.....Justice  
(Republican) (Democratic)  
of the Peace, constituting the County Board of Canvassers for.....  
County, proceeded to examine and make statements of the Whole num-  
ber of votes given at a Primary Election held on the..... day  
of September, A. D. 19...., for the nomination of County, Precinct or  
City officers mentioned in the Notice of a Primary Election, published  
and posted according to law on the.....day of.....  
A. D. 19...., that were voted for at said Direct Primary Election, on the  
.....day of September, A. D. 19...., which statements,  
certified to be correct and subscribed by the members of said County  
Board of Canvassers, with a Certificate of their Determination as to what  
persons were duly nominated for such offices, or any of them, endorsed  
and subscribed thereon, were filed in my office.

I FURTHER CERTIFY, That, by said statements and certificates of  
determination, it appears that..... having  
received the.....highest number of votes cast at said Election  
for any one person for the nomination for the office of.....  
.....on the Ticket, said number being.....  
votes, was by said County Board of Canvassers declared duly nominated  
for said office, and that the said.....  
(Name of party candidate)

.....  
receiving highest number of votes for office at said Primary Election)  
will be placed upon the official ballot at the ensuing General Election  
of November ....., 19....

IN TESTIMONY WHEREOF, I have hereunto set my hand and af-  
fixed the Seal of the County or City, at..... this  
.....day of....., A. D. 19....

.....  
County Clerk of.....County,  
or City Clerk of.....

(SEAL)

## FORM P. EL. NO. 14.

(To be filed with same officer as original petition or certificate of designation was filed, not less than ten days after the day of holding Primary Election.)

**SWORN STATEMENT OF CAMPAIGN EXPENSES.**

(See Section 29, Page 41, Election Laws 1918.)

Showing in detail all the moneys contributed or expended by.....  
 .....  
 Candidate for the nomination for the office of.....  
 .....  
 on the.....Ticket, voted for at the Primary  
 (Political party)  
 Election held in.....County, Colorado, on the.....  
 day of....., 19....  
 Amount paid....., Clerk.....County  
 for filing acceptance, ..... \$.....  
 Amount paid....., Chairman.....  
 (Name of Chairman) (Political party)  
 ..... Central Committee for subscription  
 (State)  
 to the Campaign Fund.....\$.....  
 Amount paid to.....Chairman.....  
 (County or City)  
 Central Committee for subscription to the Campaign Fund,.....  
 \$.....  
 Amount paid to.....  
 " " ".....  
 " " ".....  
 " " ".....  
 " " for.....  
 " " for.....  
 " " for.....

Total Amount.....\$

STATE OF COLORADO, }  
 .....County of.....} ss.

....., being first duly sworn, upon his  
 oath deposes and says, that the foregoing statement is in all respects  
 true, and that the same is a full, complete and detailed statement of all  
 money expended by him, directly or indirectly by himself or through any  
 other person, in aid of his nomination at the Direct Primary Election  
 of.....A. D. 19....

.....  
 (Signature of subscriber.)

Subscribed and sworn to before me, this.....day of  
 ....., A. D. 19....

My Commission Expires.....

.....  
 Notary Public or other officer.

(SEAL)

FORM P. E. NO. 15.

**CERTIFICATE OF WITHDRAWAL FROM NOMINATION.**

In accordance with the provisions of Section 37, Primary Election Law 1910, page 43, Election Laws 1918, I,.....

.....  
(Name of nominee who desires to withdraw from nomination)

do hereby respectfully decline the nomination for the office of.....

....., on the .....Ticket,  
(Title of office to which nominated) (Political party)

for which office I was duly nominated at the Direct Primary Election held on the.....day of....., A. D. 19...., or by an Independent Petition of Nomination filed in the office of.....

..... on the.....  
(Secretary of State) (County or City Clerk)

day of....., A. D. 19...., and which nomination was duly accepted by filing my written acceptance of such nomination for the said office with the.....  
(Secretary of State) (County or City Clerk)

on the..... day of....., A. D. 19...., and do by these presents respectfully authorize my name to be withdrawn from the nomination for the office of....., to be  
(Office to which nominated)

voted on at the ensuing General Election of....., A. D. 19....

IN WITNESS WHEREOF, I have hereunto set my hand and seal this.....day of....., A. D. 19....

.....  
(Signature of Candidate.)

STATE OF COLORADO, }

.....County of..... } ss.

Before me, ....., a Notary Public in and for said County and State, personally appeared....., personally known to me to be the person whose name is subscribed to the above and foregoing Certificate of Withdrawal from Nomination, and acknowledged that he or she signed said instrument in writing as his or her free and voluntary act and deed for the uses and purposes therein set forth.

Witness my hand and Notarial Seal this.....day of....., A. D. 19....

My Commission Expires.....

.....  
Notary Public or other officer.

(SEAL)

FORM P. E. NO. 16.

**AFFIDAVIT OR OATH OF CHALLENGED VOTER  
AT DIRECT PRIMARY ELECTION.**

(See Section 11, Page 34, Election Laws 1918.)

STATE OF COLORADO,     )  
.....County of..... } ss.

I do hereby solemnly swear (or affirm) that I am a qualified voter, that I am a member of and affiliated with one of the political parties represented by ballot at this primary election, and that I will at this election vote only under the ballot and only for the candidates of the political party of which I am a member and with which I am affiliated.

Subscribed and sworn to before.....  
this.....day of....., A. D. 19....

.....  
.....  
.....  
Judges of Election.

Precinct No..... (Ward)..... (County).....

FORM P. E. NO. 17.

**CERTIFIED LIST OF REGISTRATION FURNISHED BY COUNTY, CITY  
OR MUNICIPAL CLERKS TO ELECTION JUDGES OF EACH  
PRECINCT.**

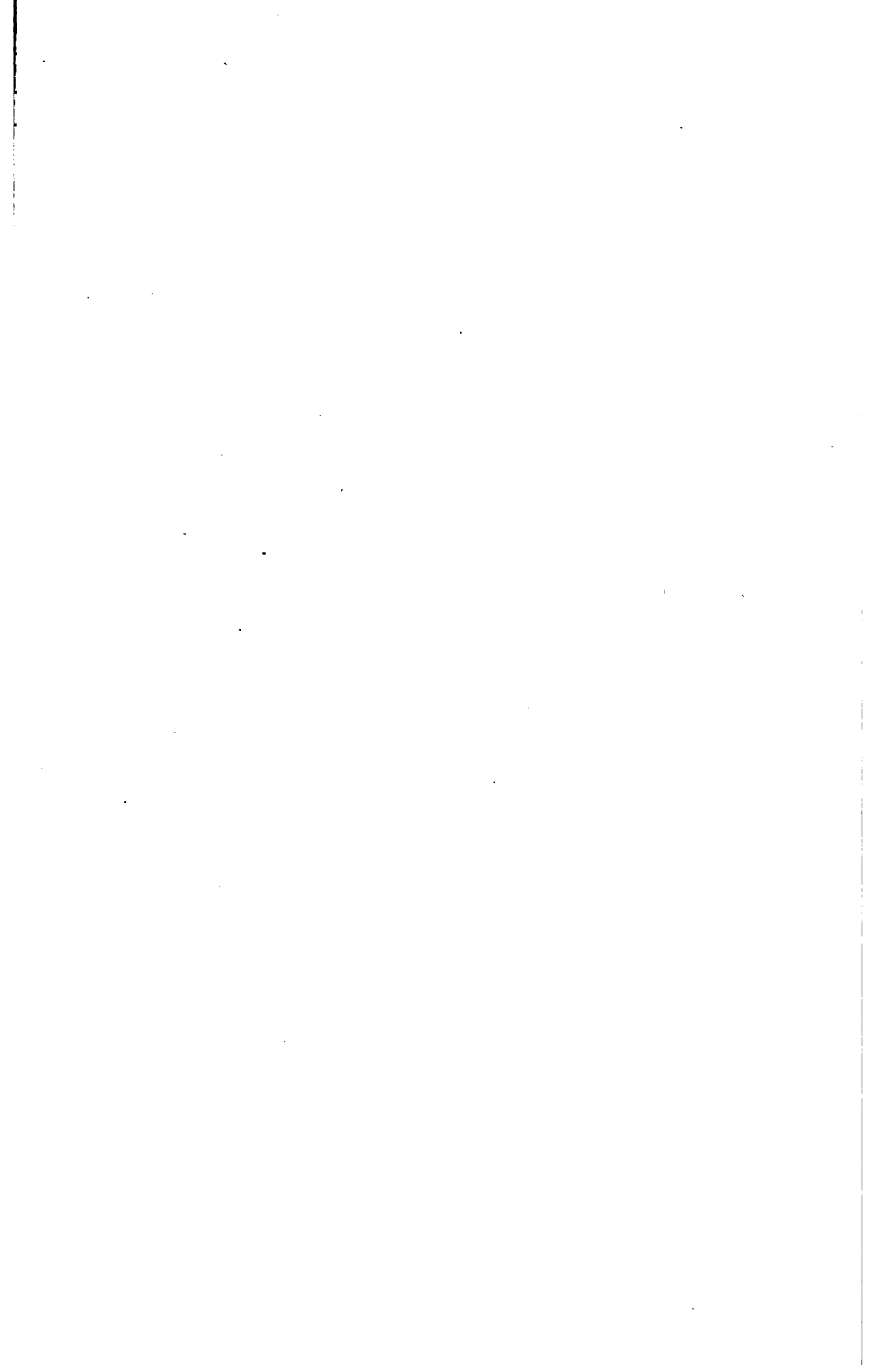
I hereby certify that the within copy of registration for Precinct  
.....Ward or District..... County  
of....., State of Colorado, containing.....  
.....names, is a true and correct list of all the registered  
voters in said Precinct who voted therein at the last general election and  
also all other registered voters in said Precinct whose names appear  
on the original registration book of said precinct in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed  
the Seal of the County of....., this.....  
day of....., A. D. 19....

.....  
County Clerk of.....County.

(SEAL)

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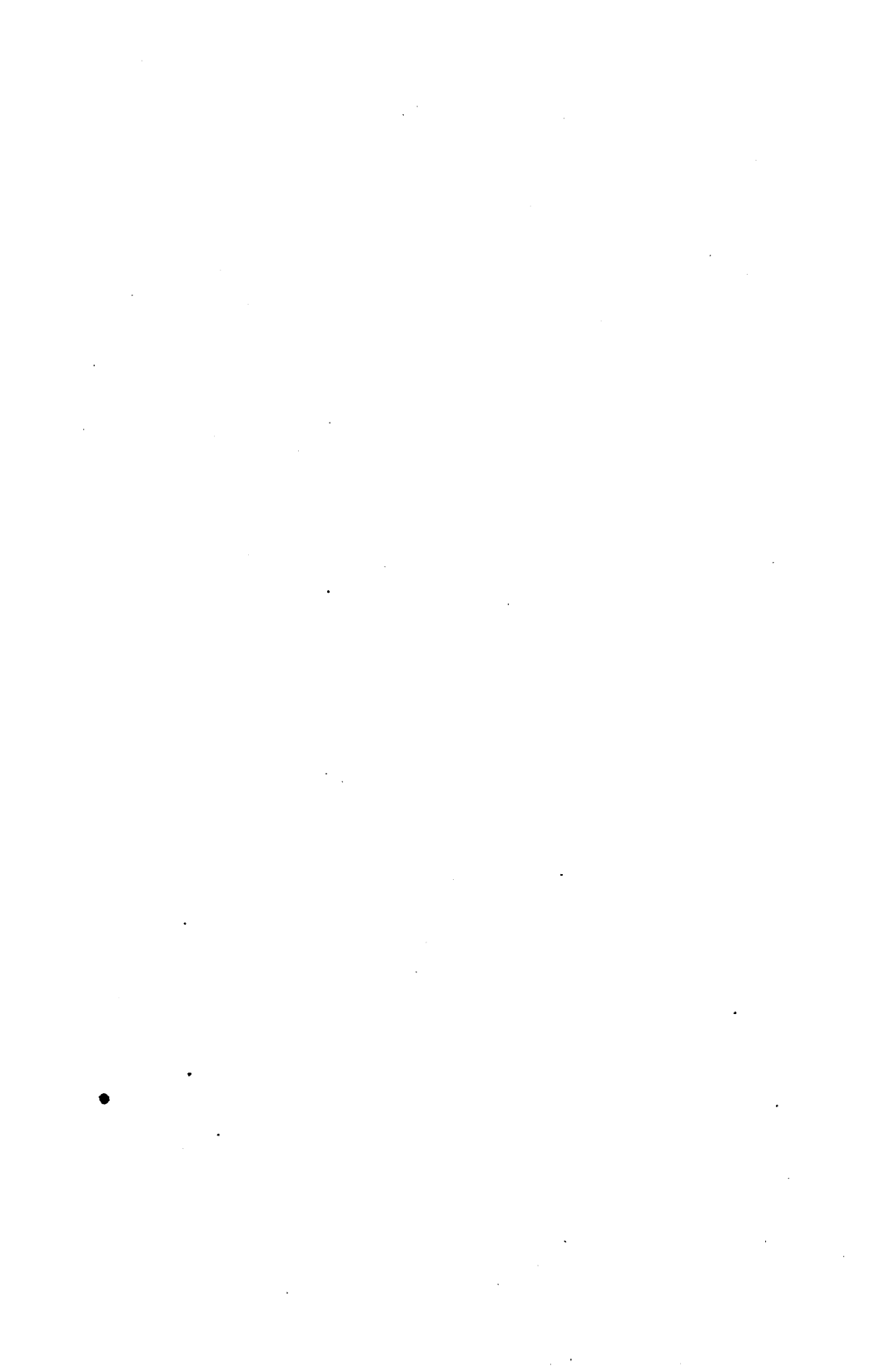
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